



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

खण्ड 25]

शिमला, शनिवार, 19 फरवरी, 1977/30 माघ, 1898

[संख्या 8

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19 फरवरी, 1977/30 माघ, 1898 को समाप्त होने वाले सप्ताह में निम्नलिखित विज्ञप्तियाँ 'प्रसाधारण राजपत्र, हिमाचल प्रदेश' में प्रकाशित हुईः—

विज्ञप्ति की संख्या	विभाग का नाम	विषय
No. 11-35/74-E&T, dated 9th February, 1977.	Excise and Taxation Department	Exempting certain quantity of liquor/beer for consumption by the officers and troops serving in the Sugar Sector from the payment of license fee and excise duty.
No. EXN. F(14)-1/76, dated 10th February 1977.	-do-	Granting <i>ex-post-facto</i> exemption from the payment of Entertainment duty on the Summer Festival convened by the Deputy Commissioner, Solan, during 1974 to 1976.
No. 7-12/71-LSG, dated 9th February, 1977. -do-	Local Self Government Department. -do-	Fixing the number of members of the Notified Area Committee, Keylong at 9. Appointing the Deputy Commissioner, Lahaul & Spiti district <i>ex-officio</i> President of the Notified Area Committee, Keylong for a period of 3 years.
-do-	-do-	Extending certain sections of the H. P. Municipal Act, 1968 in the Notified Area Committee, Keylong.
No. Hom(C)-A(3)-19/76, dated the 8th February, 1977.	Home Department	Republishing Statutory Order dated 21st January, 1977 of the Govt. of India, Ministry of Home Affairs.
No. 2-1/71-GS-II, dated the 17th February, 1977.	Governors Secretariat	Notifying the assumption of the office of the Governor of Himachal Pradesh by Shri Amin-Ud-Din Ahmad Khan.
No. 14-45/71-TPT., dated the 14/15 February, 1977.	Transport Department	Making arrangements of Road Transport Service for the forthcoming Lok Sabha Election.
* नं० एच एम आर 8-2/76-पंच, दिनांक 12 फरवरी, 1977.	कार्यालय जिलाधीश हमीरपुर	ग्राम पंचायत करार, विकास खण्ड नदौन, ज़िला हमीरपुर के निर्वाचित प्रधान व उप-प्रधान के नामों की सूचना।
नं० एच एम आर 10-8/76-न्याय, दिनांक 12 फरवरी, 1977.	तथेव	विकास खण्ड नदौन, बिक्कड़ी, हमीरपुर, भौरंज, ज़िला हमीरपुर की न्याय पंचायत हथौल, सोहारी, मझोग सुल्तानी और बजड़ोह के निर्वाचित पंचों के नामों की सूचना।

**भाग 1—बैधानिक नियमों को छोड़ कर हिमाचल प्रदेश के राज्यपाल और हिमाचल प्रदेश हाई कोर्ट द्वारा
अधिसूचनाएं इत्यादि**

हिमाचल प्रदेश सरकार

PERSONNEL (A-I) DEPARTMENT

NOTIFICATION

Simla-2, the 9th February, 1977

No. PER (A-I)-B(6)-2/77.—The Governor, Himachal Pradesh is pleased to order that Shri K. C. Chauhan, HPAS, presently posted as Deputy Excise and Taxation Commissioner, Himachal Pradesh against an *ex-cadre* post, shall take over as Deputy Excise and Taxation Commissioner (South), Himachal Pradesh (Duty post of HPAS) with headquarters at Simla with effect from April 1, 1977 vice Shri Jit Ram who will be retiring on 31-3-1977 (A.N.).

L. HMINGLIANA TOCHHAWNG,
Chief Secretary.

VITTA VIBHAG

(KHAZANA TATHA LEKHA ANUBHAG)

NOTIFICATIONS

Simla-171002, the 5th February, 1977

No. 3-4/74-Fin(T&A).—In supersession of this Department notification of even number, dated the 8th July, 1974, the Governor, Himachal Pradesh on the recommendations of the Departmental Promotion Committee, is pleased to confirm Shri M. R. Khanna, as Accounts Officer with effect from 23rd November, 1965 against the permanent post of Accounts Officer in the office of Chief Engineer, Himachal Pradesh Public Works Department.

Simla-171002, the 9th February, 1977

No. 4-4/73-Fin. (T&A).—The Governor, Himachal Pradesh is pleased to allow Shri J. L. Sharma, Treasury Officer, Nahan to cross the efficiency bar at the stage of Rs. 590 in the scale of Rs. 350-25-500-30-590/30-830-35-900 raising his pay from Rs. 590 to Rs. 620 per month with effect from 1st July, 1976.

Simla-171002, the 9th February, 1977

No 20-29/66-Fin. (T&A).—In continuation of this Department notification of even number, dated the 16th September, 1976, the Governor, Himachal Pradesh is pleased to extend the *ad hoc* promotion of Shri Mool Raj Singh, Assistant Accounts Officer in the scale of Rs. 350-900, as Accounts Officer in the scale of Rs. 400-1100 for a further period from 22nd November, 1976 to 30th November, 1976.

2. This *ad hoc* promotion will not confer any right on Shri Mool Raj Singh to claim seniority in the cadre of Accounts Officer.

M. K. KAW,
Sachiv.

**FOREST FARMING AND ENVIRONMENTAL
CONSERVATION DEPARTMENT**

NOTIFICATION

Simla-2, the 27th/29th January, 1977

No. 6-6/72-SF.—Whereas the land specified in the schedule below was under the Acquisition proceedings for public purpose namely for the construction of housing colony for the Forest Department in Station Ward Chhota Simla and Khalini;

And whereas the notifications under section 6 and 7 of the Land Acquisition Act, 1894 (Act No. 1 of 1894) had been issued *vide* this Government notification of even number, dated the 17th September, 1976;

And whereas the award has not been made by the Collector and consequent upon which the possession of the land has not been taken so far;

And whereas the said land is no more required for the said purpose;

Now, therefore, the Governor, Himachal Pradesh, is pleased to withdraw from the said acquisition under section 48 of the Land Acquisition Act, 1894 with regards to the land shown in the schedule annexed to this notification:—

SCHEDULE

District: SIMLA

Tehsil: SIMLA

PUBLIC WORKS DEPARTMENT

(A SECTION)

NOTIFICATION

Simla-171002, the 24th January, 1977

Village 1	Khasra No. 2	Area Sq. Yds. 3	Remarks Ft. 4	5
STATION WARD	188/1	729	0 Building	
CHHOTA SIMLA.	188/3	99	0 "	
	188/4	46	6 "	
	188/5	127	8 "	
	188/6	1	3 "	
	188/7	1	0 "	
	188/8	32	7 "	
	188/10/A	4946	2 Orchard	
	188/10/1/B	65	0 "	
	188/10/1/C	88	6 "	
	188/10/K	399	1 "	
	188/10/J	202	2 "	
	188/10/1/A	100	0 "	
	188/A	3412	0 Compound	
	188/D	70	6 "	
	188/E	2209	2 "	
	188/D	134	4 "	
	188/C	175	0 "	
	188/E	42	2 "	
	188/E	150	0 "	
	188/F	840	0 "	
	188/G	35	3 "	
Total ..		13907	7	

By order,
R. C. GUPTA,
Secretary.

TOURISM DEPARTMENT

NOTIFICATION

Simla-2, the 10th January, 1977

No. 10-37/76-TD (Sectt.).—Whereas it appears to the Governor, Himachal Pradesh that the land is likely to be required by the Himachal Pradesh Tourism Development Corporation Ltd., Simla at its own expenses for a public purpose, namely for the construction of cafeteria at Nahan, it is hereby notified that land in the locality described below is likely to be acquired for the said purpose.

2. This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894 to all whom it may concern.

3. In exercise of the powers conferred by the aforesaid section, the Governor, Himachal Pradesh is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey and land in the locality and do all other acts so required or permitted by the sections.

4. The Governor, in exercise of the powers under section 17(4) of the said Act is further pleased to direct that the matter being urgent the provisions of section 5-A of the Land Acquisition Act, 1894 shall not apply in this case.

SPECIFICATION

District : SIRMUR

Tehsil: NAHAN

Village	Khasra No.	Area in Metric Unit
NAHAN	943	585.75
	944	12.40
	945	17.60
Total ..		615.75

S. M. VERMA,
Avar Sachiv.

By order,
B. C. NEGI,
Secretary.

No. 23-48/69-Hort. Sectt. (Vol. III).—The Governor, Himachal Pradesh is pleased to allow Shri Satwant Singh, Fruit Technologist, Department of Horticulture to cross the efficiency bar at the stage of Rs. 750/- in the time scale of Rs. 400-30-550/40-750/50-1250, raising his pay to Rs. 800/- p.m. w.e.f. 10-1-71.

HIMACHAL PRADESH VIDHAN SABHA**NOTIFICATION***Simla-171004, the 1st February, 1977*

No. 1-35/75-VS.—The Hon'ble Speaker has appointed

Shri Vikram Singh Katoch as Chairman of the Committee on Subordinate Legislation vice Shri Salig Ram appointed as Minister.

V. P. BHATNAGAR,
Secretary.

**भाग 2—वैधानिक नियमों को छोड़ कर विभिन्न विभागों के अधिक्षों और ज़िला बैंजिस्ट्रेटों द्वारा अधिसूचनाएं
इत्यादि**

**INDUSTRIES DEPARTMENT
DECLARATION UNDER SECTION 24 OF THE ACT**

Solan, the 3rd February, 1977

No. US (Loan)73-74/296/8347.—Whereas a notice was served on Shri Muni Lal Kaushesh s/o Shri Munshi Ram, Village Sainj, P. O. Kandaghat, Tehsil Kandaghat, District Solan, on 24-2-76 under section 23 of the Himachal Pradesh State Aid to Industries Act, 1971 as modified and applied to the Himachal Pradesh, calling upon the said Shri Muni Lal to pay to me the sum of Rs. 1428 plus further interest on or before 10-3-76 and whereas the said sum has not been paid, I hereby declare that the sum of Rs. 10,000 with further interest, and the

property described on the schedule attached is liable for the satisfaction of the said debt.

SCHEDULE

1. House at Kandaghat, District Solan, owned by Shri Ved Parkash s/o Shri Jiwa Ram, r/o Kandaghat, Tehsil Kandaghat, District Solan (Surety No. 1).

2. Building entered in Khasra No. 130 at Village Sainj, Tehsil Kandaghat, District Solan, owned by Shri Ishwar Das Kaushesh s/o Shri Munshi Ram, r/o Village Sainj, Tehsil Kandaghat.

S. D. S. JASWAL,
*District Industries Officer,
Solan district, Solan.*

**भाग 3—अधिनियम, विधेयकों पर प्रवर समिति के प्रतिवेदन, वैधानिक नियम तथा
हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश हाई कोर्ट, फाइनेन्शल कमिशनर तथा कमिशनर आफ
इन्कम-टैक्स द्वारा अधिसूचित आदेश इत्यादि**

VITTA (VINIYAM) VIBHAG**NOTIFICATION***Simla-171002, the 2nd February, 1977*

No. Fin. (C)-A(3)7/76.—In exercise of the powers conferred by clause (2) of Article 283 of the Constitution of India, and all other powers enabling him in this behalf, the Governor, Himachal Pradesh, is pleased to make the following rules further to amend the Himachal Pradesh Financial Rules, Vol. I, 1971, namely:—

(1) These rules may be called the Himachal Pradesh Financial Rules (First Amendment) Rules Vol. I, 1977.

(2) They shall be deemed to have come into force with effect from 21st May, 1976.

2. In rule 10.16 of these rules—

(1) Note 1 below clause (iii) as amended *vide* Himachal Pradesh Financial Rules (First Amendment) Rules, Vol. I, 1976, shall be substituted us under:—

Note 1.—Recovery of advance shall commence from the pay of the month following the completion of the house or the pay of the 18th month after the date on which the first instalment of the advance is paid to the Government servant, whichever is earlier.”

(2) Last paragraph of Note below clause (ix) as amended *vide* Himachal Pradesh Financial Rules (First

Amendment) Rules, Vol. I, 1974, shall be substituted as under:—

“In the case of advance taken for the purchase of land only the repayment shall commence from the fourth issue of pay after the advance is taken and in the case of advance taken for the purchase of land and for the construction of a house thereon, the repayment shall commence from the pay of the month following the completion of the house or the pay of the 18th month after the date on which the first instalment of the advance as paid to the Government servant, whichever is earlier. The repayment in each of these two cases shall be completed within twelve and a half years”.

By order,
M. K. KAW,
Vitta Sachiv.

PUBLIC WORKS DEPARTMENT**(A—SECTION)****NOTIFICATION***Simla-171002, the 3rd February, 1977*

No. 1-49/69-PWD-Vol. IV.—In exercise of the powers conferred by proviso to Article 309 of the Constitution of India and all other powers enabling him in this behalf, the Governor, Himachal Pradesh, in consultation with the Government of Himachal Pradesh, Department of Personnel (Training) O. M. No. HIPA (Exam)-12/75, dated 23-3-76, hereby orders that the following

shall be deemed to have added as note No. 7 to the Recruitment and Promotion Rules of the post of Assistant Engineer (C) notified *vide* notification of even number, dated the 12th November, 1976:—

“Every member of the service shall pass a departmental examination as prescribed in the Departmental Examination Rules within the probation period or within two years from the notification of these rules whichever is later failing which he shall not be eligible to:—

- (i) cross the efficiency bar next due;
- (ii) confirmation in the service; and
- (iii) promotion to the next higher post:

Provided that if a member becomes otherwise eligible for promotion, within the period mentioned above, he shall be considered for promotion and if otherwise found fit shall be promoted provisionally subject to his passing the departmental examination. He may be reverted if he fails to pass the same:

Provided further that an officer who has qualified the departmental examination in whole or in part prescribed under any other rules before the notification of these rules, shall not be required to qualify the whole or in part of the examination as the case may be:

Provided further that an officer for whom no departmental examination was prescribed prior to the notification of these rules and who has attained the age of 45 years on the first of March, 1976 shall not be required to qualify the departmental examination prescribed under these rules.

2. An officer on promotion to a higher post in his direct line of promotion shall not be required to pass the aforesaid examination

if he has already passed the same in the lower gazetted post.

3. The Government may, in consultation with the Himachal Pradesh Public Service Commission, grant in exceptional circumstances and for reasons to be reduced to writing, exemption in accordance with the Departmental Examination Rules to any class or category of persons from the departmental examination in whole or in part.

B. C. NEGI,
Commissioner-cum-Secretary.

REVENUE DEPARTMENT NOTIFICATION

Simla-2, the 19th January, 1977

No. Rev. I-B(6)-2/76.—In partial modification of this department notification No. Rev. I-B(6)-2/76, dated the 17th August, 1976, the Financial Commissioner, Himachal Pradesh, is pleased to order the following transfers and postings of Tehsildars in public interest:—

Sl. No.	Name	From	To
1.	Shri S.K. Chauhan, Tehsildar (Settler), Chachiot Tehsildar.	Chachiot	Tehsildar (Settlement), Kangra vice Shri O. P. Soni.
2.	Shri O. P. Soni Tehsildar, (Settlement).	Kangra.	Tehsildar, Chachiot (instead of Sundernagar ordered earlier).

By order,
H. S. DUBEY,
Financial Commissioner.

भाग 4—स्थानीय स्वायत शासन: म्यूनिसिपल बोर्ड, डिस्ट्रिक्ट बोर्ड, नोटिफाईड और टाउन एरिया तथा पंचायत विभाग

(शृङ्खला)

भाग 5—वैयक्तिक अधिसूचनाएं और विज्ञापन

In the Court of the District Judge, Simla

G.W.A. 5-S/2 OF 76

Prehlad Singh s/o Late Shri Mohan Singh, r/o quarter No. 12, Block No. 6 of Press Building, Simla-3.
..Applicant.

Versus

..Respondent.

General public

To

The General Public.

Whereas in the above noted case the petitioner Shri Prehlad Singh has moved an application u/s 7 of the

guardians and Wards Act, 1890 for the appointment of the guardian of minor Shri Mahabir Singh s/o Late Mohan Singh residing at quarter No. 12, Press Building, Simla-3 in this court.

The notice is hereby given to the general public that if any body has got any objection for the appointment of the guardian may file in this court on or before 4-3-1977 afterwards no objection will be entertained.

Given under my hand and the seal of the court this 8th day of February, 1977.

Seal.

N. S. SHANDIL,
District Judge, Simla.

that he should appear in this court on 2-3-77 at 10.00 A.M. personally or through advocate, otherwise an *ex-parte* proceedings shall be taken against him.

Given under my hand and the seal of the court this the 4th February, 1977.

Seal.

V. K. AHUJA,
Sub-Judge, 1st Class.

NOTICE UNDER ORDER 5, RULE 20, C.P.C.

In the Court of Shri V. K. Ahuja, Sub-Judge, 1st Class, Hamirpur (H.P.)

CASE NO. 73 OF 1969

Prabha Ram (Plaintiff) Versus Vijay Singh (Defendant).

Versus: Shri Vijay Singh s/o Ragha, r/o Thandu, Pargana Gehdwin, Tehsil Ghumarwin, District Bilaspur .. (Defendant).

Whereas in the above noted case, it has been proved to the satisfaction of this court that the defendant (Vijay Singh) cannot be served in ordinary way as the summons were issued by this court to the above named defendant so many times and he is evading service.

Hence a notice under Order 5, Rule 20, C.P.C. is hereby issued in the name of the defendant (Vijay Singh) that he should appear in this court on 26-2-77 at 10.00 A.M. personally or through advocate otherwise an *ex-parte* proceeding shall be taken against him.

Given under my hand and the seal of the court this the 2nd day of February, 1977.

Seal.

V. K. AHUJA,
Sub-Judge, 1st Class.

NOTICE UNDER ORDER 5, RULE 20, C.P.C.

In the Court of Shri V. K. Ahuja, Sub-Judge, 1st Class, Hamirpur (H. P.)

CASE NO. 279 OF 1971

Tarseem Lal (Plaintiff) Versus Kuldip Singh (Defendant).

To

Kuldip Singh s/o unknown, resident of Bassi Chawki, P.O. Murhana, Tehsil Ghumarwin, District Bilaspur .. (Defendant).

Whereas in the above noted case it has been proved to the satisfaction of this court that the defendant (Kuldip Singh) cannot be served through ordinary way as the summons were issued so many times in the name of above noted defendant (Kuldip Singh) and he is evading the services of the summons.

Hence a notice under Order 5, Rule 20, C.P.C. is hereby issued in the name of above noted defendant (Kuldip Singh) that he should appear in this court personally or through advocate on 3-3-77 at 10.00 A.M. otherwise an *ex-parte* proceeding shall be taken against him.

Given under my hand and the seal of the court this the 7th day of February, 1977.

Seal.

V. K. AHUJA,
Sub-Judge, 1st Class.

न्यायालय श्री ओ० पी० शर्मा सीनियर सब-जज कांगड़ा स्थान धर्मशाला

प्रार्थना-पत्र अण्डर आडर 5, रुल 20, सी० पी० सी० अजराए नम्बर 53 साल 1973

जोआईट हिन्दु फैमली कर्म राम लाल, गनपतराय एहलूवालिया, अमृतसर द्वारा सेठ ओंकार मल पुत्र ईश्वर दास (सेठ) मैनेजर .. (डिप्रीदार)।

बनाम

बाल किशन चौपड़ा लाहौर हाल मैक्लोड गंज उपरली धर्मशाला, तहसील व जिला कांगड़ा मूतक (मदयून) द्वारा रनजीत कुमार प्रशोत्रम कुमार पुत्र बाल किशन चौपड़ा, 3. नारिदा रणी विद्वा बाल किशन चौपड़ा स्थान मैक्लोड गंज उपरली धर्मशाला तहसील व जिला कांगड़ा .. (मदयूनान)।

ऊपरलिखित मुकदमा उनवान बाला में मदयूनान के नाम कई वारसमन व नोटिस जारी किए परन्तु मदयूनान समन की तामील करने से गुरेज करते हैं या रूपेश हो जाते हैं। इस लिए अब मदयूनान के नाम इश्तहार व मुनादी द्वारा नोटस जारी किया जाता है कि मदयूनान तिथि 5-3-77 को प्रातः 10 बजे बजरिया वकील या स्वयं हाजर हों और मुकदमा को पैरवों करें अन्यथा एक तरफा कार्रवाई की जावेगी।

आज तिथि 9-2-77 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुआ।

मोहर

ओ० पी० शर्मा,
सीनियर सब-जज, धर्मशाला।

इश्तहार

ब्रह्मदालत साहिब सीनियर सब-जज बहादुर बइखत्यारात डिस्ट्रिक्ट जज साहिब, जिला बिलासपुर (हि० प्र०)

नं० मुकदमा 3/2 वाबत सन् 1976

1 महेन्द्र उमर 12 साल नाबालग पिसर व मु० कमला देवी उमर 6 : साल नाबालग दुखतर मु० सुखा देवी मुत्रफिया जोजा कांशी राम वरफाकत बाल्द खुद कांशी राम वल्द राम दितू ब्राह्मण साकना भराडी, परगना वसेह, तहसील धुमारवीं, जिला बिलासपुर (हि० प्र०)।

बनाम

आप जनता

जोकि श्री महेन्द्र आदि उपरोक्त प्रार्थीगण ने दरखतात हस्त सर्टिफिकेट जानशीनी जेर दफा 372 इण्डियन सैक्सेन एक्ट मु०

सुखा देवी मूतिका ने अदालत हज़ा में पेश की है जो तारीख को मंजूर हो कर दरज रजिस्टर हुई, लिहाजा बनावर आगाही बरादरान व करावतदारान मुतवफ्फी इश्तहार हज़ा जारी किया जाता है कि जिम शब्द को निष्पत्त दरख्वास्त मञ्जकूर उजरदारी करनी हो वह किबन अज तारीख मोवरखा 2 मार्च सन् 1977 हाजिर अदालत हज़ा होकर अपना उज़र पेश करे वरना कोई उज़र बाद इनकजाए 2-3-1977 तारीख मज़कूरा समाप्त न होगा।

आज बतारीख 4 फरवरी सन् 1977 बसबत हमारे दस्तखत और मोहर अदालत से जारी किया गया।

मोहर।

हस्ताक्षरित

सीनियर सब-जज।

इश्तहार

न्यायालय सीनियर सब-जज साहिव, ज़िला विलासपुर, हिमाचल प्रदेश

मुकदमा नम्बर 36/1 सन् 1976

श्री दिला राम, जगतपाल, ओम प्रकाश पिसरान लछमन दास, जात खनी, सकना मछवान, परगना मुन्हानी तहसील, घुमारवीं, ज़िला विलासपुर (हि० प्र०)

.. वादीगण।

बनाम

1. मुन्ही राम, 2. मुख राम पिसरान वरड़, जट, ग्राम कोहला, तप्पा पटवान तहसील, हमीरपुर, ज़िला हमीरपुर (हि० प्र०), 3. कांशी राम पुत्र सूदामा राम खनी सकना धनीरी, ज़िला हमीरपुर, 4. मंगतू 5. मन्तू, 6. प्रभु पिसरान काहनू, 7. पोहलो, 8. शंकर पिसरान गंगू, 9. लछमन, 10. ध्याना, 11. निका पिसरान गोविन्द झींवर, सकना मधवान परगना, मुन्हानी, तहसील घुमारवीं, ज़िला विलासपुर (हि० प्र०) .. प्रतिवादीगण

दावा दखलयादी अराजी वज्रिया शुका

बनाम - 1. सन्तु पुत्र काहनू, 2. पोहलो, 3. शंकर पिसरान गंगू झींवर साकिनान मछवान, परगना मुन्हानी, तहसील घुमारवीं, ज़िला विलासपुर (हि० प्र०)।

उपरोक्त उनवान मुकदमा में प्रतिवादीगण सन्तु, पोहलो तथा शंकर के नाम कई बार ममन भेजे गये परन्तु तामील नहीं हो रही है। इस पर इस न्यायालय को पूर्ण रूप से विश्वास हो चुका है कि मन्तू, पोहलो तथा शंकर प्रतिवादीगण की साधारणा रीति से नामील होनी कठिन है। अतः तीनों प्रतिवादीगण (सन्तु, पोहलो व शंकर) को वज्रिया इश्तहार सूचित किया जाता है कि जहां कहीं भी हो वहां से इस न्यायालय में मुकाम विलासपुर (हि० प्र०) में असालनन या बकालनन या किसी मुख्यालय द्वारा मिति 2-3-1977 को 10 बजे दिन उपस्थित हो कर मुकदमा को पैरवी करें अन्यथा एकपक्षीय कार्रवाई अमल में लाई जायेगी।

आज मिति 5-2-1977 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी किया गया।

हस्ताक्षरित
सीनियर सब-जज।

अदालती नोटिस

बअदालत जनाव तहसीलदार श्री दिला राम हाजरी व अखत्यारात एसिस्टेंट कुलैक्टर I ग्रेड बड़सर, ज़िला हमीरपुर, हिमाचल प्रदेश

मु० नं० 10 साल 1975

जमना देवी बेवा तेज सिंह पुत्र धनी राम साकन टीका खलावत, तप्पा ढटवाल, तहसील बड़सर .. प्रार्थी।

बनाम

सरताज देवी वगैरा साकनान टीका खलावत, तप्पा ढटवाल, तहसील बड़सर .. प्रतिवादीगण।

उनवान:-दरख्वास्त तक्सीम भूमि खाता नं० 9 खतौनी नं० 33 खसरा किता 22 रक्वा वकदर 55 कनाल 2 मरले अनुसार जमाबन्दी 1970-71 वाक्या टीका खलावत, तप्पा ढटवाल, तहसील बड़सर।

नोटीस बनाम:- 1. सरताज देवी, 2. जुग देवी दुखतरान धनी राम, 3. तोता राम पुत्र धनी राम, 4. निर्मला नाबालग बवलायत श्रीमती कैहरो वाल्दा खुद साकन टीका खलावत, तप्पा ढटवाल।

बमुकदमा उपरोक्त उनवान बाला जेर समायत आदालत हज़ा है जिसमें आईन्दा तारीख पेशी 3-3-1977 मुकर्र है। सरताज देवी वगैरा फरीकदोयम को कई बार समन जारी किये गये मगर वह हाजिर अदालत नहीं हुए। इससे आदालत को पूर्ण विवास हो चुका है कि उपरोक्त फरीकदोयम की तामील साधारण तरीका से होनी मुश्किल है। अतः इनको वज्रिया इश्तहार अखबार सूचित किया जाता है कि वह बराये पैरवी तक्सीम हमारे न्यायालय हज़ा में तिथि 3-3-1977 को प्रातः 10 बजे हाजिर आवें बसूरत दीगर कार्रवाई एकतरफा अमल में लाई जायेगी।

आज तिथि 17-1-77 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर

दिला राम हाजरी,
एसिस्टेंट कुलैक्टर, बड़सर।

भाग, 6—भारतीय राजपत्र इत्यादि में से पुनः प्रकाशन

LAW DEPARTMENT NOTIFICATION

Simla-2, the 1st September, 1976

No. LLR-E(9) 12/76.—The following Acts recently passed by Parliament which have already been published in the Gazette of India, Extraordinary, part II, section 1 are, hereby republished in the Himachal Pradesh Government Rajapatra for the information of general public.

1. The Foreign Contribution (Regulation) Act, 1976 (49 of 1976).
2. The Maternity Benefit (Amendment) Act, 1976 (53 of 1976).
3. The Indian Standards Institution (Certification Marks) Amendment Act, 1976 (54 of 1976).
4. The Iron Ore Mines and Manganese Ore Mines Labour Welfare Cess Act, 1976 (55 of 1976).
5. The Beedi Workers Welfare Cess Act, 1976 (56 of 1976).
6. The Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund Act, 1976 (61 of 1976).
7. The Beedi Workers Welfare Fund Act, 1976 (62 of 1976).
8. The Betwa River Board Act, 1976 (63 of 1976).
9. The Workmen's Compensation (Amendment) Act, 1976 (65 of 1976).
10. The Finance Act, 1976 (66 of 1976).

M. C. PADAM,
Under Secretary (Judicial).

Assented to on 31st March, 1976

THE FOREIGN CONTRIBUTION (REGULATION) ACT, 1976

(ACT No. 49 OF 1976)

AN ACT

to regulate the acceptance and utilisation of foreign contribution or foreign hospitality by certain persons or associations, with a view to ensuring that parliamentary institutions, political associations and academic and other voluntary organisations as well as individuals working in the important areas of national life may function in a manner consistent with the values of a sovereign democratic republic, and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent, application and commencement.—(1) This Act may be called the Foreign Contribution (Regulation) Act, 1976.

(2) It extends to the whole of India, and it shall also apply to—

(a) citizens of India outside India; and
(b) associates, branches or subsidiaries, outside India, of companies or bodies corporate, registered or incorporated in India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—(1) In this Act, unless the context otherwise requires,—

(a) “association” means an association of individuals, whether incorporated or not, having an office in India and includes a society, whether registered under the Societies Registration Act, 1860 (21 of 1860), or not, and any other organisation, by whatever name called;

- (b) “candidate for election” means a person who has been duly nominated as a candidate for election to any Legislature;
- (c) “foreign contribution” means the donation, delivery or transfer made by any foreign source,—
 - (i) of any article, not being an article given to a person as a gift for his personal use, if the market value, in India, of such article, on the date of such gift, does not exceed one thousand rupees;
 - (ii) of any currency, whether Indian or foreign;
 - (iii) of any foreign security as defined in clause (i) of section 2 of the Foreign Exchange Regulation Act, 1973 (46 of 1973);
- (d) “foreign hospitality” means any offer, not being a purely casual one, made by a foreign source for providing a person with the costs of travel to any foreign country or territory or with free board, lodgings, transport or medical treatment;
- (e) “foreign source” includes—
 - (i) the Government of any foreign country or territory and any agency of such Government,
 - (ii) any international agency, not being the United Nations or any of its specialised agencies, the World Bank, International Monetary Fund or such other agency as the Central Government may, by notification in the Official Gazette, specify in this behalf,
 - (iii) a foreign company within the meaning of section 591 of the Companies Act, 1956 (1 of 1956), and also includes—
 - (a) a company which is a subsidiary of a foreign company, and
 - (b) a multi-national corporation within meaning of this Act,
 - (iv) a corporation, not being a foreign company, incorporated in a foreign country or territory,
 - (v) a multi-national corporation within the meaning of this Act,
 - (vi) a company within the meaning of the Companies Act, 1956, (1 of 1956), if more than one-half of the nominal value of its share capital is held, either singly or in the aggregate, by one or more of the following, namely:—
 - (a) Government of a foreign country or territory,
 - (b) citizens of a foreign country or territory,
 - (c) corporations incorporated in a foreign country or territory,
 - (d) trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory,
 - (vii) a trade union in any foreign country or territory, whether or not registered in such foreign country or territory,
 - (viii) a foreign trust by whatever name called, or a foreign foundation which is either in the nature of trust or is mainly financed by a foreign country or territory,
 - (ix) a society, club or other association of individuals formed or registered outside India,
 - (x) a citizen of foreign country,

but does not include any foreign institution which has been permitted by the Central Government, by notice

fication in the Official Gazette, to carry on its activities in India;

(f) "Legislature" means—

- (i) either House of Parliament,
- (ii) the Legislative Assembly of State, or in the case of a State having a Legislative Council, either House of the Legislature of that State,
- (iii) Legislative Assembly of Union territory constituted under the Government of Union Territories Act, 1963 (20 of 1963),
- (iv) the Metropolitan Council of Delhi constituted under section 3 of the Delhi Administration Act, 1966 (19 of 1966),
- (v) Municipal Corporations in metropolitan areas as defined in the Code of Criminal Procedure, 1973, (2 of 1974).
- (vi) District Councils and Regional Council in the States of Assam and Meghalaya and in the Union territory of Mizoram as provided in the Sixth Schedule to the Constitution, or
- (vii) any other elective body as may be notified by the Central Government.

as the case may be;

- (g) "political party" means an association or body of individual citizens of India which is, or is deemed to be, registered with the Election Commission of India as a political party under the Election Symbols (Reservation and Allotment) Order, 1968 as in force for the time being;
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "registered newspaper" means a newspaper registered under the Press and Registration of Books Act, 1867; (25 of 1867);
- (j) "subsidiary" and "associate" have the meanings, respectively, assigned to them in the Companies Act, 1956 (1 of 1956);
- (k) "trade union" means a trade union registered under the Trade Unions Act, 1926 (16 of 1926).

Explanation.—For the purposes of this Act, a corporation incorporated in a foreign country or territory shall be deemed to be a multi-national corporation if such corporation—

- (a) has a subsidiary or a branch or a place of business in two or more countries or territories;
- (b) carries on business, or otherwise operates, in two or more countries or territories.

(2) Words and expressions used herein and not defined but defined in the Foreign Exchange Regulation Act, 1973 (46 of 1973), have the meanings respectively assigned to them in that Act.

(3) Words and expressions used herein and not defined in this Act or in the Foreign Exchange Regulation Act, 1973 (46 of 1973), but defined in the Representation of the People Act, 1950 (43 of 1950) or the Representation of the People Act, 1951, (43 of 1951), have the meanings respectively assigned to them in such Act.

3. *Application of other laws not barred.*—The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

CHAPTER II

REGULATION OF FOREIGN CONTRIBUTION AND FOREIGN HOSPITALITY

4. *Candidate for election, etc., not to accept foreign contribution.*—(1) No foreign contribution shall be accepted by any—

- (a) candidate for election,
- (b) correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper,
- (c) Government servant or employee of any corporation,
- (d) member of any Legislature,
- (e) political party or office-bearer thereof.

Explanation.—In clause(c) and in section 9, "corporation" means corporation owned or controlled by Government and includes a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956).

(2) (a) No person, resident in India, and no citizen of India resident outside India, shall accept any foreign contribution, or acquire or agree to acquire any currency from a foreign source, on behalf of any political party, or any person referred to in sub-section (1) or both.

(b) No person, resident in India, shall deliver any currency whether Indian or foreign which has been accepted from any foreign source, to any person if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to any political party or any person referred to in sub-section (1), or both.

(c) No citizen of India resident outside India shall deliver any currency, whether Indian or foreign which has been accepted from any foreign source, to—

(i) any political party or any person referred to in sub-section (1), or both, or

(ii) any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a political party or to any person referred to in sub-section (1), or both.

(3) No person receiving any currency, whether Indian or foreign, from a foreign source on behalf of any association, referred to in sub-section (1) of section 6, shall deliver such currency—

(i) to any association or organisation other than the association for which it was received, or

(ii) to any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely to deliver such currency to an association other than the association from which such currency was received.

5. *Organisation of a political nature not to accept foreign contribution except with the prior permission of the Central Government.*—(1) No organisation of a political nature, not being a political party, shall, accept any foreign contribution except with the prior permission of the Central Government.

Explanation.—For the purposes of this section, "organisation of a political nature, not being a political party" means such organisation as the Central Government may, having regard to the activities of the organisation or the ideology propagated by the organisation or the programme of the organisation or the association of the organisation with the activities of any political party, by an order published in the Official Gazette, specify in this behalf.

(2) (a) Except with the prior permission of the Central Government, no person, resident in India, and no citizen of India, resident outside India, shall accept any foreign contribution, or acquire or agree to acquire any foreign currency, on behalf of an organisation referred to in sub-section (1).

(b) Except with the prior permission of the Central Government, no person, resident in India, shall deliver any foreign currency to any person if he knows or has

reasonable cause to believe that such other person intends, or is likely, to deliver such currency to an organisation referred to in sub-section (1).

(c) Except with the prior approval of the Central Government, no citizen of India, resident outside India, shall deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to—

- (i) any organisation referred to in sub-section (1), or
- (ii) any person, if he knows or has reasonable cause to believe that such person intends, or is likely to deliver such currency to an organisation referred to in sub-section (1).

6. Certain associations and persons receiving foreign contribution to give intimation to the Central Government.—(1) Every association [not being an organisation referred to in sub-section (1) of section (5)] having a definite cultural, economic, educational, religious or social programme shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government as to the amount of foreign contribution received by it, the source from which and the manner in which such foreign contribution was received and the purposes for which and the manner in which, such foreign contribution was utilised by it.

(2) Every candidate for election, who had received any foreign contribution, at any time within one hundred and eighty days immediately preceding the date on which he is duly nominated as such candidate, shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government as to the amount of foreign contribution received by him, the source from which and the manner in which such foreign contribution was received and the purposes for which, and the manner in which, such foreign contribution was utilised by him.

7. Recipients of scholarships, etc., to give intimation to the Central Government.—(1) Every citizen of India receiving any scholarship, stipend or any payment of a like nature from any foreign source shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government as to the amount of the scholarship, stipend or other payment received by him and the foreign source from which, and the purpose for which, such scholarship, stipend or other payment has been, or is being, received by him.

(2) Where any recurring payments are being received by any citizen of India from any foreign source by way of scholarship, stipend or other payment, it shall be sufficient if the intimation referred to in sub-section (1) includes a precise information as to the intervals at which, and the purpose for which, such recurring payments will be received by such citizen of India.

(3) It shall not be necessary to give such intimation as is referred to in sub-section (1) or sub-section (2) in relation to scholarships, stipends or payments of a like nature, if the annual value of such scholarships, stipends or other payments does not exceed such limits as the Central Government may, by rules under this Act, specify in this behalf.

8. Persons to whom section 4 shall not apply.—Nothing contained in section 4 shall apply to the acceptance, by any person specified in that section, of any foreign contribution, where such contribution is accepted by him, subject to the provisions of section 10,—

- (a) by way of salary, wages, or other remuneration due to him or to any group of persons working under him, from any foreign source by way of payment in the ordinary course of business transacted in India by such foreign source; or
- (b) by way of payment, in the course of international trade or commerce, or in the ordinary course of business transacted by him outside India; or
- (c) as an agent of a foreign source in relation to any transaction made by such foreign source with Government; or
- (d) by way of a gift or presentation made to him as a member of any Indian delegation, provided that such gift or present was accepted in accordance with the regulations made by the Central Government with regard to the acceptance or retention of such gift or presentation; or
- (e) from his relative when such foreign contribution has been received with the previous permission of the Central Government:

Provided that no such permission shall be required if the amount of foreign contribution received by him from his relative does not exceed, in value, eight thousand rupees per annum and an intimation is given by him to the Central Government as to the amount received, the source from which and the manner in which it was received and the purpose for which and the manner in which it was utilised by him:

- (f) by way of remittance received, in the ordinary course of business, through any official channel, post office, or any authorised dealer in foreign exchange under the Foreign Exchange Regulation Act, 1973 (46 of 1973).

Explanation.—In this Act, the expression “relative” has the meaning assigned to it in the Companies Act, 1956 (1 of 1956).

9. Restrictions on acceptance of foreign hospitality.—No member of a Legislature, office-bearer of a political party, Government servant or employee of any corporation shall, while visiting any country or territory outside India, accept, except with the prior permission of the Central Government, any foreign hospitality:

Provided that it shall not be necessary to obtain any such permission for an emergent medical aid needed on account of sudden illness contracted during a visit outside India, where such foreign hospitality has been received, the person receiving such hospitality shall give, within one month from the date of receipt of such hospitality, an intimation to the Central Government as to the receipt of such hospitality, and the source from which, and the manner in which, such hospitality was received by him.

10. Power of Central Government to prohibit receipt of foreign contribution etc. in certain cases.—The Central Government may—

- (a) prohibit any association, not specified in section 4, or any person, from accepting any foreign contribution;
- (b) require any association, specified in section 6, to obtain prior permission of the Central Government before accepting any foreign contribution;
- (c) require any person or class of persons or any association, not being an association specified in section 6, to furnish intimation within such time and in such manner as may be prescribed as to the

amount of any foreign contribution received by such person or class of persons or association, as the case may be, and the source from which and the manner in which such contribution was received and the purpose for which and the manner in which such foreign contribution was utilised;

- (d) require any person or class of persons, not specified in section 9, to obtain prior permission of the Central Government before accepting any foreign hospitality;
- (e) require any person or class of persons, not specified in section 9, to furnish intimation, within such time and in such manner as may be prescribed as to the receipt of any foreign hospitality, the source from which and the manner in which such hospitality was received:

Provided that no such prohibition or requirement shall be made unless the Central Government is satisfied that the acceptance of foreign contribution by such association or person or class of persons, as the case may be, the acceptance of foreign hospitality by such person, is likely to affect prejudicially—

- (i) the sovereignty and integrity of India; or
- (ii) the public interest; or
- (iii) freedom or fairness of election to any Legislature; or
- (iv) friendly relations with any foreign State; or
- (v) harmony between religious, racial, linguistic or regional groups, castes or communities.

11. Application to be made in prescribed form for obtaining prior permission to accept foreign contribution or hospitality.—(1) Every individual, association, organisation or other person, who is required by or under this Act, to obtain the prior permission of the Central Government to accept any foreign contribution or foreign hospitality, shall, before the acceptance of any such contribution or hospitality, make an application for such permission to the Central Government in such form and in such manner as may be prescribed.

(2) If an application referred to in sub-section (1) is not disposed of within ninety days from the date of receipt of such application, the permission prayed for in such application shall, on the expiry of the said period of ninety days, be deemed to have been granted by the Central Government:

Provided that, where, in relation to an application, the Central Government has informed the applicant the special difficulties by reason of which his application cannot be disposed of within the said period of ninety days, such application shall not, until the expiry of a further period of thirty days, be deemed to have been granted by the Central Government.

CHAPTER III

MISCELLANEOUS

12. Power to prohibit payment of currency received in contravention of the Act.—Where the Central Government is satisfied, after making such inquiry as it may deem fit, that any person has in his custody or control any article or currency, whether Indian or foreign, which has been accepted by such person in contravention of any of the provisions of this Act, it may, by order in writing, prohibit such person from paying, delivering transferring or otherwise dealing with, in any manner whatsoever,

such article or currency save in accordance with the written orders of the Central Government and a copy of such order shall be served upon the person so prohibited in the prescribed manner, and thereupon the provisions of sub-sections (2), (3), (4) and (5) of section 7 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), shall, so far as may be, apply to, or in relation to, such article or currency and references in the said sub-sections to moneys, securities or credits shall be construed as references to such article or currency.

13. Recipients of foreign contribution to maintain accounts, etc.—Every association referred to in section 6, shall maintain, in such form and in such manner as may be prescribed,—

- (a) an account of any foreign contribution received by it, and
- (b) a record as to the manner in which such contribution has been utilised by it.

14. Inspection of accounts or records.—If the Central Government has, for any reason, to be recorded in writing, any ground to suspect that any provision of this Act has been, or is being, contravened by—

- (a) any political party, or
- (b) any person, or
- (c) any organisation, or
- (d) any association,

it may, by general or special order, authorise such gazetted officer, holding a class I post, as it may think fit (hereinafter referred to as the authorised officer), to inspect any account or record maintained by such political party, person, organisation or association, as the case may be, and thereupon every such authorised officer shall have the right to enter in or upon any premises at any reasonable hour, before sunset and after sunrise, for the purpose of inspecting the said account or record:

Provided that no gazetted officer shall be authorised to inspect the account or record maintained by a political party, unless he has been holding a class I post in connection with the affairs of the Union, or a State, for not less than ten years.

15. Seizure of accounts or records.—If, after inspection of an account or record referred to in section 14, the authorised officer has any reasonable cause to believe that any provision of this Act or any other law relating to foreign exchange has been, or is being, contravened, he may seize such account or record and produce the same before the court in which any proceeding is brought for such contravention:

Provided that the authorised officer shall return such account or record to the person from whom it was seized if no proceeding is brought within six months from the date of such seizure for the contravention disclosed by such account or record.

16. Seizure of article or currency received in contravention of the Act.—If any gazetted officer, authorised in this behalf by the Central Government, by general or special order, has any reason to believe that any person has in his possession or control any article exceeding rupees one thousand in value, or currency, whether Indian or foreign, in relation to which any provision of this Act has been, or is being, contravened, he may seize such article or currency.

17. Seizure to be made in accordance with the Code of Criminal Procedure, 1973.—Every seizure made under this Act shall be made in accordance with the provision of section 100 of the Code of Criminal Procedure, 1973 (2 of 1974).

18. Confiscation of article or currency obtained in contravention of the Act.—Any article or currency which is seized under section 16 shall be liable to confiscation if such article or currency has been adjudged under section 19 to have been received or obtained in contravention of this Act.

19. Adjudication of confiscation.—Any confiscation referred to in section 18 may be adjudged—

- (a) without limit, by the Court of Session within the local limits of whose jurisdiction the seizure was made; and
- (b) subject to such limits as may be prescribed, by such officer, not below the rank of an Assistant Sessions Judge, as the Central Government may, by notification in the Official Gazette, specify in this behalf.

20. Opportunity to be given before adjudication of confiscation.—No order of adjudication of confiscation shall be made unless a reasonable opportunity of making a representation against such confiscation has been given to the person from whom any article or currency has been seized.

21. Appeal.—(1) Any person aggrieved by any order made under section 19 may prefer an appeal,—

- (a) where the order has been made by the Court of Session, to the High Court to which such Court is subordinate; or
- (b) where the order has been made by any officer specified under clause (b) of section 19, to the Court of Session within the local limits of whose jurisdiction such order of adjudication of confiscation was made,

within one month from the date of communication to such person of the order:

Provided that the appellate court may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of one month, allow such appeal to be preferred within a further period of one month, but not thereafter.

(2) Any organisation referred to in section 5, or any person or association referred to in section 9 or section 10, aggrieved by an order made in pursuance of the *Explanation* to sub-section (1) of section 5 or by an order of the Central Government refusing to give permission or, by any order made by the Central Government, under section 5 or section 9 or section 10, as the case may be, may within sixty days from the date of such order prefer an appeal against such order to the High Court within the local limits of whose jurisdiction the appellant ordinarily resides or carries on business or personally works for gain, or, where the appellant is an organisation or association, the principal office of such organisation or association is located.

(3) Every appeal preferred under this section shall be deemed to be an appeal from an original decree and the provisions of Order XLI of the First Schedule to the Code

of Civil Procedure, 1908, (5 of 1908), shall, as far as may be, apply thereto as they apply to an appeal from an original decree.

22. Penalty for article or currency obtained in contravention of section 12.—If any person, on whom any prohibitory order has been served under section 12, pays, delivers, transfers or otherwise deals with, in any manner whatsoever, any article or currency, whether Indian or foreign, in contravention of such prohibitory order, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both; and notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the court trying such contravention may also impose on the person convicted an additional fine equivalent to the market value of the article or the amount of the currency in respect of which the prohibitory order has been contravened by him or such part thereof as the court may deem fit.

23. Punishment for the contravention of any provision of the Act.—(1) Whoever accepts, or assists any person, political party or organisation in accepting, any foreign contribution or any currency from a foreign source, in contravention of any provision of this Act or any rule made thereunder, shall be punished with imprisonment for a term which may extend to five years, or with fine, or with both.

(2) Whoever accepts any foreign hospitality in contravention of any provision of this Act or any rule made thereunder shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

24. Power to impose additional fine where article or currency is not available for confiscation.—Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974) the Court trying a person, who, in relation to any article or currency, whether Indian or foreign, does or omits to do any act which act or omission would render such article or currency liable to confiscation under this Act, may, in the event of the conviction of such person for the act or omission aforesaid, imposed on such person a fine not exceeding five times the value of the article or currency or one thousand rupees, whichever is more, if such article or currency is not available for confiscation, and the fine so imposed shall be in addition to any other fine which may be imposed on such person under this Act.

25. Penalty for offences where no separate punishment had been provided.—Whoever fails to comply with any provision of this Act for which no separate penalty has been provided in this Act shall be punished with imprisonment for a term which may extend to one year, or with fine not exceeding one thousand rupees, or with both.

26. Offences by companies.—(1) Where an offence under this Act or any rule made thereunder has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render such person liable to any punishment if he proves that the offence was committed without his

knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act or any rule made thereunder has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) "company" means any body corporate and includes a firm, society, trade union or other association of individuals; and
- (b) "director", in relation to a firm, society, trade union or other association of individuals, means a partner in the firm or a member of the governing body of such society, trade union or other association of individuals.

27. *Bar to the prosecution of offences under the Act.*—No court shall take cognizance of any offence under this Act, except with the previous sanction of the Central Government or any officer authorised by that Government in this behalf.

28. *Investigation into cases under the Act.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974), any offence punishable under this Act may also be investigated into by such authority as the Central Government may specify in this behalf and the authority so specified shall have all the powers which an officer-in-charge of a police station has while making an investigation into a cognizable offence.

29. *Protection of action taken in good faith.*—No suit or other legal proceedings shall lie against the Central Government in respect of any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or, any rule or order made thereunder.

30. *Power to make rules.*—(1) The Central Government may, by notification in the official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the time within which, and the manner in which, intimation is to be given by an association referred to in section 6, with regard to the foreign contributions received by it;
- (b) the limits up to which receipt of scholarships, stipends or payments of a like nature need not be intimated to the Central Government;
- (c) the time within which, and the manner in which, intimation is to be given by persons receiving any scholarship, stipend or any payment of a like nature from a foreign source;
- (d) the time within which, and the manner in which a candidate for election should give intimation as to the amount of foreign contribution received by him at any time within one hundred and eighty days from the date when he became such candidate;

- (e) the form and manner in which an application shall be made for obtaining prior permission of the Central Government to receive foreign contribution or foreign hospitality;
- (f) the manner of service of the prohibitory order made under section 12;
- (g) the form and manner in which account or record referred to in section 13 shall be maintained;
- (h) the limits up to which an officer, not below the rank of an Assistant Sessions Judge, may make adjudication of confiscation;
- (i) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

31. *Power to exempt.*—If the Central Government is of opinion that it is necessary or expedient in the interests of the general public so to do, it may, by order and subject to such conditions as may be specified in the order, exempt any association (not being a political party), organisation or any individual (not being a candidate for election) from the operation of all or any of the provisions of this Act and may, as often as may be necessary, revoke or modify such order.

32. *Act not to apply to Government transactions.*—Nothing contained in this Act shall apply to any transaction between the Government of India and the Government of any foreign country or territory.

Assented to on 3rd April, 1976

THE MATERNITY BENEFIT (AMENDMENT) ACT, 1976)

(ACT NO. 53 OF 1976)

AN

ACT

further to amend the Maternity Benefit Act, 196 .

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Maternity Benefit (Amendment) Act, 1976.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 2.*—In section 2 of the Maternity Benefit Act, 1961 (53 of 1961) (hereinafter referred to as the principal Act), in sub-section (2), for the word, figure and letter "section 5A", the words,

figures and letters "sections 5A and 5B" shall be substituted.

3. Insertion of new section 5B.—After section 5A of the principal Act, the following section shall be inserted, namely:—

"5B. Payment of maternity benefit in certain cases.—

- (a) who is employed in a factory or other establishment to which the provisions of the Employees' State Insurance Act, 1948 (34 of 1948), apply;
- (b) whose wages (excluding remuneration for overtime work) for a month exceed the amount specified in sub-clause (b) of clause (9) of section 2 of that Act; and
- (c) who fulfils the conditions specified in sub-section (2) of section 5, shall be entitled to the payment of maternity benefit under this Act.”.

Assented to on 3rd April, 1976

THE INDIAN STANDARDS INSTITUTION (CERTIFICATION MARKS) AMENDMENT ACT, 1976

(ACT NO. 54 OF 1976)

AN

ACT

further to amend the Indian Standards Institution (Certification Marks) Act, 1952.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Indian Standards Institution (Certification Marks) Amendment Act, 1976.

2. Amendment of section 20.—In section 20 of the Indian Standards Institution (Certification Marks) Act, 1952 (36 of 1952) (hereinafter referred to as the principal Act),—

- (i) in sub-section (2), clause (e) shall be omitted;
- (ii) sub-section (4) shall be omitted.

3. Amendment of section 21.—In section 21 of the principal Act, in sub-section (2), after the word and figures "section 20", the words "and may also provide for the levy of fees for the grant or renewal of any licence" shall be inserted.

4. Insertion of new section 22.—In the principal Act, after section 21, the following section shall be inserted, namely:—

"22. Rules and regulations to be laid before Parliament.—Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid,

both Houses agree in making any modification in the rule or regulation, as the case may be, or both Houses agree that the rule or regulation, as the case may be, should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.”.

Assented to on 7th April, 1976

THE IRON ORE MINES AND MANGANESE ORE MINES LABOUR WELFARE CESS ACT, 1976
(ACT NO. 55 OF 1976)

AN
ACT

to provide for the levy and collection of a cess on iron ore and manganese ore for the financing of activities to promote the welfare of persons employed in the iron ore mines and manganese ore mines and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-seventh year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Iron Ore Mines and Managanese Ore Mines Labour Welfare Cess Act, 1976.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States:

Provided that the Central Government may, by notification in the Official Gazette, apply in the first instance the provisions of this Act, only to iron ore mines, or only to manganese ore mines, in a State with effect from such date as may be specified in the notification, and if that Government is satisfied that it is necessary or expedient so to do, it may extend this Act to all iron ore mines and manganese ore mines in that State with effect from such date as may be specified in the notification published in the Official Gazette.

2. Definitions.—(1) In this Act, unless the context otherwise requires,—

- (a) "export" means taking out of India to a place outside India;
- (b) "fund" means the Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund formed under section 3 of the iron Ore Mines and Manganese Ore Mines Labour Welfare Fund Act, 1976;
- (c) "prescribed" means prescribed by rules made under this Act.

(2) Words and expressions used but not defined in this Act and defined in the Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund Act, 1976, shall have the meanings respectively assigned to them in that Act.

3. Levy and collection of cess on iron ore and manganese ore.—With effect from such date as the Central

Government may, by notification in the Official Gazette, appoint, there shall be levied and collected as a cess for the purposes of the Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund Act, 1976—

- (i) on all iron ore produced in any mine,—
 - (a) a duty of customs, where such iron ore is exported; or
 - (b) a duty of excise, where such iron ore is sold or otherwise disposed of to the occupier of any metallurgical factory, or to any person who in turn sells it to a metallurgical factory, or is used by the owner of the mine in any metallurgical factory,

at such rate not exceeding one rupee per metric tonne of iron ore as the Central Government may, from time to time, fix by notification in the Official Gazette;

- (ii) on all manganese ore produced in any mine,—
 - (a) a duty of customs, where such manganese ore is exported; or
 - (b) a duty of excise, where such manganese ore is sold or otherwise disposed of to the occupier of any metallurgical factory, or to any person who in turn sells it to a metallurgical factory or is used by the owner of the mine in any metallurgical factory,

at such rate not exceeding six rupees per metric tonne of manganese ore as the Central Government may, from time to time, fix by notification in the Official Gazette.

Explanation.—Where the owner of any iron ore mine or manganese ore mine is also the occupier of a metallurgical factory, then, for the purposes of such clause (b) of clause (i) or sub-clause (b) of clause (ii); all the iron ore or manganese ore, as the case may be, produced in the mine and not sold or otherwise disposed of to the occupier of any other metallurgical factory or to any other person shall be deemed, unless the contrary is proved, to have been used by such owner for his own metallurgical factory.

4. Payment of duty of customs and duty of excise.—(1) Every duty of customs leviable under this Act on any iron ore or manganese ore shall be payable to the Central Government by the person by whom the iron ore or, as the case may be, manganese ore is exported.

(2) Every duty of excise leviable under this Act on any iron ore or manganese ore shall be payable—

- (a) to the occupier of the metallurgical factory by the person by whom such iron ore or manganese ore is sold or otherwise disposed of to such occupier,
- (b) to the Central Government, by the owner of the iron ore mine or manganese ore mine where the iron ore or manganese ore is used by such owner in any metallurgical factory,

within such period as may be prescribed.

(3) All amounts referred to in clause (a) of sub-section (2) shall be collected by the occupier of the metallurgical factory in such manner, and paid by him to the Central Government within such period, as may be prescribed.

5. Crediting proceeds of duty to Consolidated Fund of India.—The proceeds of duty of customs and duty of

excise levied under section 3 shall be credited to the Consolidated Fund of India.

6. Power of Central Government to exempt.—Notwithstanding anything contained in this Act, if the Central Government is of opinion that in respect of any metallurgical factory or class of metallurgical factories the levy of the duty of customs or duty of excise on iron ore or manganese ore under this Act is disproportionate to the cost of collection of such duty of customs or duty of excise from such metallurgical factory or class of metallurgical factories, it may, by notification in the official Gazette and subject to such exceptions and modifications as may be specified in the said notification, exempt such metallurgical factory or class of metallurgical factories from all or any of the provisions of this Act.

7. Interest payable by occupiers of factories and owners of mines.—If any occupier of a factory or any owner of an iron ore mine or a manganese ore mine fails to pay any amount payable by him to the Central Government under section 4 within the period prescribed thereunder, such occupier or owner, as the case may be, shall be liable to pay simple interest at twelve per cent per annum on the amount to be paid from the date on which such payment is due till such amount is actually paid.

8. Penalty for non-payment of duty of excise within the prescribed period.—If any duty of excise payable by the occupier of the metallurgical factory or the owner of the iron ore mine or manganese ore mine to the Central Government under section 4 is not paid to that Government within the period prescribed thereunder, it shall be deemed to be in arrears and the authority prescribed in this behalf may, after such inquiry as it deems fit, impose on the occupier of the metallurgical factory or, as the case may be, on the owner of the iron ore mine or manganese ore mine a penalty not exceeding the amount of duty of excise in arrears:

Provided that before imposing any such penalty such occupier or such owner, as the case may be, shall be given a reasonable opportunity of being heard and, if after such hearing the said authority is satisfied that the default was for any good and sufficient reason, no penalty shall be imposed under this section.

9. Recovery of amounts due under the Act.—Any amount due under this Act including the interest or penalty, if any, payable under section 7 or section 8, as the case may be) from any occupier of a metallurgical factory or any owner of an iron ore mine or a manganese ore mine may be recovered by the Central Government in the same manner as an arrear of land revenue.

10. Penalty for evasion of duty of excise.—(1) Whoever wilfully or intentionally evades or attempts to evade the payment of duty of excise payable by him to the Central Government under this Act, shall, on conviction, be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) No court shall take cognizance of an offence punishable under this section, save on a complaint made by, or under the authority of, the Central Government.

11. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was

in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) “company” means any body corporate and includes a firm or other association of individuals; and
- (b) “director”, in relation to a firm, means a partner in the firm.

12. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer or other employee of the Central Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

13. Repeal and saving.—(1) As from the commencement of this Act, the Iron Ore Mines Labour Welfare Cess Act, 1961 (58 of 1961), shall stand repealed.

(2) (a) The amount collected as cess, under the Act repealed by sub-section (1), shall be credited to the Consolidated Fund of India.

(b) The Central Government may, after due appropriation made by Parliament by law in this behalf, credit to the Fund an amount not exceeding the proceeds of cess credited under clause (a), after deducting the cost of collection as determined by that Government.

14. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the assessment and collection of the duty of customs or duty of excise levied under section 3;
- (b) the making of refunds, remissions and recoveries of the duty of customs or duty of excise levied under section 3;
- (c) the period within which the person selling or otherwise disposing of the iron ore or manganese ore to the occupier of the metallurgical factory shall pay the duty of excise of such occupier under sub-section (2) of section 4;
- (d) the period within which the owner of the iron ore mine or manganese ore mine shall pay the duty

of excise to the Central Government under sub-section (2) of section 4;

- (e) the manner in which the occupier of the metallurgical factory shall collect the duty of excise under sub-section (3) of section 4;
- (f) the period within which the occupier of the metallurgical factory shall pay to the Central Government the duty of excise collected by him under sub-section (3) of section 4;
- (g) the authority which may impose any penalty under section 8;
- (h) any other matter which has to be or may be prescribed, or provided for, by rules under this Act.

(3) In making any rule under clause (c) of sub-section (2), the Central Government may direct that a breach thereof shall be punishable with fine which may extend to five hundred rupees.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Assented to on 8th April, 1976

THE BEEDI WORKERS WELFARE CESS ACT, 1976

(ACT NO. 56 OF 1976)

AN
ACT

to provide for the levy and collection, by way of cess, a duty of excise on tobacco issued for the manufacture of beedi.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Beedi Workers Welfare Cess Act, 1976.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

- (a) “Fund” means the Beedi Workers Welfare Fund formed under section 3 of the Beedi Workers Welfare Fund Act, 1976;
- (b) “prescribed” means prescribed by rules made under this Act.

3. Levy and collection of cess on tobacco issued for manufacture of beedi.—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied and

collected by way of cess for the purposes of the Beedi Workers Welfare Fund Act, 1976, on so much of the tobacco as is issued to any person from a warehouse for any purpose in connection with the manufacture of beedi, a duty of excise at such rate not exceeding one rupee per kilogram on such tobacco as the Central Government may, from time to time, fix by notification in the Official Gazette.

Explanation.—In this sub-section, “warehouse” means any place or premises appointed or licensed under rule 140 of the Central Excise Rules, 1944, (1 of 1944) made under the Central Excise and Salt Act, 1944 (1 of 1944).

(2) The duty of excise levied under sub-section (1) shall be in addition to any cess or duty leviable on tobacco under any other law for the time being in force.

4. Crediting of proceeds of duty to the Consolidated Fund of India.—The proceeds of the duty of excise levied under sub-section (1) of section 3 shall be credited to the Consolidated Fund of India.

5. Power to call for information.—The Central Government or any other authority specified by it in this behalf may require any person to furnish, for the purposes of this Act, such statistical and any other information as it may think fit.

6. Protection of action taken good faith.—No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer or other employee of the Central Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

7. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the assessment and collection of the duty of excise levied under section 3;
- (b) the furnishing to the Central Government or any other authority specified by it in this behalf by any person of such statistical and any other information as may be required to be furnished under section 5;
- (c) any other matter which has to be or may be prescribed or provided for, by rules under this Act.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Assented to on 10th April, 1976

THE IRON ORE MINES AND MANGANESE ORE MINES LABOUR WELFARE FUND ACT, 1976

(Act No. 61 of 1976)

AN

ACT

to provide for the financing of activities to promote the welfare of persons employed in the iron ore mines and manganese ore mines.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund Act, 1976.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States:

Provided that the Central Government may by notification in the Official Gazette, apply in the first instance the provisions of this Act, only to iron ore mines, or only to manganese ore mines, in a State with effect from such date as may be specified in the notification, and if that Government is satisfied that it is necessary or expedient so to do, it may extend this Act to all iron ore mines and manganese ore mines in that State with effect from such date as may be specified in the notification published in the Official Gazette.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “agent” and “owner” have the meanings respectively assigned to them in clauses (c) and (l) of sub-section (1) of section 2 of the Mines Act, 1952 (35 of 1952);

(b) “contractor” has the meaning assigned to it in clause (c) of sub-section (1) of section 2 of the Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970);

(c) “factory” and “occupier” have the meanings respectively assigned to them in clauses (m) and (n) of section 2 of the Factories Act, 1948 (63 of 1948);

(d) “Fund” means the Iron Ore mines and Manganese Ore Mines Labour Welfare Fund formed under section 3;

(e) “manager” means the manager referred to in section 17 the Mines Act, 1952 (35 of 1952);

(f) “manganese ore” includes ferrogenous manganese ore or ferro-manganese ore;

(g) “metallurgical factory” means—

(i) a factory in which iron or steel or manganese is being processed or manufactured;

(ii) any other factory, being a factory in which iron ore or manganese ore is used for any purpose which the Central Government may, by notification in the Official Gazette, declare

to be a metallurgical factory for the purposes of this Act;

(h) a person is said to be employed in an iron ore mine or manganese ore mine,—

(1) if he is employed within the premises or in the vicinity of such mine by the owner, agent or manager of such mine or by a contractor or any other agency exclusively in any one or more of the following, namely:—

(i) any iron ore or manganese ore mining operation;

(ii) the operation, servicing, maintenance or repair of any machinery or any part thereof used in or about such mine;

(iii) the loading, unloading or despatch of iron ore or manganese ore or any other material connected with the mining of iron ore or manganese ore;

(iv) any work in any office, canteen or creche situated within the precincts of such mine;

(v) any welfare, health, sanitary or conservancy services or any watch and ward duties at any place situated within such premises or vicinity, not being a place occupied by any residential building; or

(2) if, in any such area as may be notified by the Central Government in the Official Gazette in this behalf, he is employed by the owner, agent or manager of such mine or by a contractor or any other agency exclusively in the loading unloading or despatch of iron ore or manganese ore or any other material connected with the mining of iron ore or manganese ore;

(i) "prescribed" means prescribed by rules made under this Act.

3. Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund.—There shall be formed a Fund, to be called the Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund, and there shall be credited thereto—

(a) an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide from and out of the proceeds of duty of customs and duty of excise credited under section 5 of the Iron Ore Mines and Manganese Ore Mines Labour Welfare Cess Act, 1976, after deducting therefrom, the cost of collection as determined by the Central Government under this Act;

(b) any income from investment of the amount credited under the Act referred to in clause (a) and any other moneys received by the Central Government for the purposes of the Act.

4. Application of Fund.—The Fund shall be applied by the Central Government to meet the expenditure incurred in connection with the measures which, in the opinion of that Government, are necessary or expedient to promote the welfare of persons employed in the iron ore mines and manganese ore mines, and in particular—

(a) to defray the cost of measures for the benefit of persons employed in the iron ore mines or manganese ore mines directed towards—

(i) the provision and improvement of public health and sanitation, the prevention of disease and the provision and improvement of medical facilities;

(ii) the provision and improvement of water supplies and facilities for washing;

(iii) the provision and improvement of educational facilities;

(iv) the provision and improvement of housing and recreational facilities including standards of living, nutrition and amelioration of social conditions;

(v) the provision of transport to and from the place of work;

(b) to grant loan or subsidy to a State Government, a local authority or the owner of an iron ore mine or of a manganese ore mine, in aid of any scheme approved by the Central Government for any purpose connected with the welfare of persons employed in iron ore mines or manganese ore mines;

(c) to any annually grants-in-aid to such of the owners of iron ore mines or manganese ore mines who provide to the satisfaction of the Central Government welfare measures of the prescribed standard for the benefit of persons employed in their mines, so, however, that the amount payable as grants-in-aid to such owners shall not exceed—

(i) the amount spent by them in the provision of welfare measures as determined by the Central Government or any person specified by it in this behalf, or

(ii) such amount as may be prescribed,

whichever is less:

Provided that no grant-in-aid shall be payable in respect of any welfare measures provided by the owner of an iron ore mine or of a manganese ore mine where the amount spent thereon determined as aforesaid is less than the amount prescribed in this behalf;

(d) to meet the allowances, if any, of the members of the Advisory Committee and the Central Advisory Committee constituted under section 5 and section 6 respectively and the salaries and allowances, if any, of persons appointed under section 8.

(e) any other expenditure which the Central Government may direct to be defrayed from the Fund.

5. Advisory Committees.—(1) The Central Government may,—

(a) constitute for each State which produces iron ore or manganese ore an Advisory Committee, or

(b) where both iron ore and manganese ore are produced in a State, constitute, for such State, an Advisory Committee in respect of iron ore only or manganese ore only, or in respect of both,

to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it by that Government, including matters relating to the application of the Fund.

(2) Each Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government of whom one shall be a woman and the members shall be chosen in such manner as may be prescribed:

Provided that each Advisory Committee shall include an equal number of members representing Government, the owners of iron ore mines and manganese ore mines and the persons employed in the iron ore mines and manganese ore mines.

(3) The Chairman of each Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of the members of every Advisory Committee.

6. Central Advisory Committee.—(1) The Central Government may constitute a Central Advisory Committee to co-ordinate the work of the Advisory Committees constituted under section 5 and to advise the Central Government on any matter arising out of the administration of this Act.

(2) The Central Advisory Committee shall consist of such number of persons as may be appointed by the Central Government of whom one shall be a woman and the members shall be chosen in such manner as may be prescribed:

Provided that the Central Advisory Committee shall include an equal number of members representing the Government, the owners of the iron ore mines and manganese ore mines and the persons employed in the iron ore mines and manganese ore mines.

(3) The Chairman of the Central Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of the members of the Central Advisory Committee.

7. Power to co-opt, etc.—(1) The Advisory Committee or the Central Advisory Committee may, at any time and for such period as it thinks fit, co-opt any person or persons to the Advisory Committee.

(2) A person co-opted under sub-section (1) shall exercise all the powers and functions of a member under this Act but shall not be entitled to vote.

(3) The Advisory Committee or the Central Advisory Committee may, if it considers it necessary or expedient so to do, invite any person to attend its meeting and when such person attends any meeting, he shall not be entitled to vote thereat.

8. Appointment of Welfare Commissioners, etc., and their powers.—(1) The Central Government may appoint as many Welfare Commissioners, Welfare Administrator, Inspectors and such other officers and staff as it thinks necessary for the purposes of this Act and the Iron Ore Mines and Manganese Ore Mines Labour Welfare Cess Act, 1976.

(2) The Central Government may, by general or special order, direct a Welfare Commissioner to appoint such staff as is considered necessary for the purposes of this Act and the Iron Ore Mines and Manganese Ore Mines Labour Welfare Cess Act, 1976.

(3) Every person so appointed shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

(4) Any Welfare Commissioner, Welfare Administrator or Inspector may,—

(a) with such assistance, if any, as he may think fit, enter at any reasonable time, any place which he considers it necessary to enter for carrying out the purposes of this Act;

(b) do within such place anything necessary for the proper discharge of his duties; and

(c) exercise such other powers as may be prescribed.

9. Power of Central Government to exempt.—Notwithstanding anything contained in this Act, if the Central Government is satisfied that there is in force in any State or part thereof a law making adequate provision for the financing of activities to promote the welfare of persons employed in the iron ore mines or manganese ore mines, it may, by notification in the Official Gazette, direct that all or any of the provisions of this Act shall not apply or shall apply to such State or part thereof subject to such exceptions and modifications as may be specified in the notification.

10. Annual report of activities financed under the Act.—The Central Government shall, as soon as may be after the end of each financial year, cause to be published in the Official Gazette a report giving an account of its activities financed under this Act during the previous financial year, together with a statement of accounts.

11. Power to call for information.—The Central Government may require an occupier of a metallurgical factory or the owner, agent or manager of an iron ore mine or of a manganese ore mine to furnish, for the purposes of this Act, such statistical and other information in such form and within such period as may be prescribed.

12. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner in which the Fund may be applied for the measures specified in section 4;

(b) the conditions governing the grant of loan or subsidy under clause (b) of section 4;

(c) the standard of welfare measures to be provided by owners of iron ore mines or manganese ore mines for the purposes of clause (c) of section 4;

(d) the determination of the amount referred to in sub-clause (ii) of clause (c) of section 4 and in the proviso to that clause;

(e) the composition of the Advisory Committees and the Central Advisory Committee constituted under section 5 and section 6 respectively, the manner in which the members thereof shall be chosen, the term of office of such members, the allowances, if any, payable to them including co-opted members and invitees, and the manner in which the said Advisory Committees and the Central Advisory Committee shall conduct their business;

(f) the recruitment, conditions of service and the duties of all persons appointed under section 8;

(g) the powers that may be exercised by a Welfare Commissioner, Welfare Administrator or an Inspector under section 8;

(h) the furnishing to the Central Government by the occupiers of metallurgical factories and the owners, agents or managers of iron ore mines or of manganese ore mines, of such statistical and other information as may be required to be furnished, from time to time, by that Government under section 11;

(i) the form in which and the period within which statistical and other information are to be furnished under clause (h);

(j) any other matter which has to be or may be prescribed, or provided for, by rules under this Act.

(3) In making any rule under clause (h) or clause (i) of sub-section (2), the Central Government may direct that a breach thereof shall be punishable with fine which may extend to five hundred rupees.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Assented to on 10th April, 1976

THE BEEDI WORKERS WELFARE FUND ACT, 1976

(ACT No. 62 OF 1976)

AN

ACT

to provide for the financing of measures to promote the welfare of persons engaged in beedi establishments.

Be it enacted by Parliament in the Twentyseventh year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Beedi Workers Welfare Fund Act, 1976.

(2) It extends to the whole of India.

(3) It shall come into force in a State on such date, as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas in the State and for different provisions of this Act.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “Fund” means the Beedi Workers Welfare Fund formed under section 3;

(b) a person is said to be engaged in an establishment if he is engaged in that establishment, directly or through any agency, whether for wages or not, for doing any work, skilled, unskilled, manual or clerical and includes—

(i) any person who is given raw materials by an employer or a contractor for being made into beedi at home, and

(ii) any person not engaged by an employer or a contractor but working with the permission of, or under agreement with the employer or contractor;

(c) “prescribed” means prescribed by rules made under this Act;

(d) words and expressions used but not defined in this Act and defined in the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 (32 of 1966) shall have the meanings respectively assigned to them in that Act in so far as they relate to a person engaged in beedi establishments.

3. Beedi Workers Welfare Fund.—There shall be formed a Fund to be called the Beedi Workers Welfare Fund and there shall be credited thereto—

(a) an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide from and out of the proceeds of cess credited under section 4 of the Beedi Workers Welfare Cess Act, 1976, after deducting the cost of collection as determined by the Central Government under this Act;

(b) any income from investment of the amount credited under the Act referred to in clause (a) and any other moneys received by the Central Government for the purposes of this Act.

4. Application of Fund.—(1) The Fund shall be applied by the Central Government to meet the expenditure incurred in connection with measures and facilities which, in the opinion of that Government, are necessary or expedient to promote the welfare of persons engaged in beedi establishments; and in particular—

(a) to defray the cost of measures for the benefit of such persons directed towards—

(i) the improvement of public health and sanitation, the prevention of disease and the provision and improvement of medical facilities;

(ii) the provision and improvement of water supplies and facilities for washing;

(iii) the provision and improvement of educational facilities;

(iv) the provision and improvement of housing and recreational facilities including standards of living, nutrition and amelioration of social conditions;

(v) the provision and improvement of such other welfare measures and facilities as may be prescribed;

(b) to grant loan or subsidy to a State Government, a local authority or an employer in aid of any scheme approved by the Central Government

for the purposes connected with the welfare of persons engaged in beedi establishment;

(c) to pay annually grants-in-aid to a State Government or a local authority or to an employer who provides to the satisfaction of the Central Government welfare measures and facilities of the prescribed standard for the benefit of persons engaged in beedi establishments, so, however, that the amount payable as grants-in-aid to any such State Government, local authority or employer shall not exceed—

(i) the amount spent in providing welfare measures and facilities as determined by the Central Government or any person specified by it in this behalf, or

(ii) such amount as may be prescribed,

whichever is less:

Provided that no grant-in-aid shall be payable in respect of any such welfare measures and facilities where the amount spent thereon determined as aforesaid is less than the amount prescribed in this behalf;

(d) to meet the allowances, if any, of the members of the Advisory Committees and the Central Advisory Committee constituted under sections 5 and 6 respectively and the salaries and allowances, if any, of persons appointed under section 8;

(e) any other expenditure which the Central Government may direct to be defrayed from the Fund.

(2) The Central Government shall have power to decide whether any particular expenditure is or is not debitable to the Fund, and its decision shall be final.

5. Advisory Committees.—(1) The Central Government may constitute as many advisory Committees as it thinks fit, but not exceeding one for each of the principal beedi producing States, to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it by that Government, including matters relating to the application of the Fund.

(2) Each Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government and the members shall be chosen in such manner as may be prescribed:

Provided that each Advisory Committee shall include an equal number of members representing Government, the employers and persons engaged in beedi establishments and that at least one member of such Committee shall be a woman.

(3) The Chairman of each Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of all members of every Advisory Committee.

6. Central Advisory Committee.—(1) The Central Government may constitute a Central Advisory Committee to co-ordinate the work of the Advisory Committees constituted under section 5 and to advise the Central Government on any matter arising out of the administration of this Act.

(2) The Central Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government and the members shall be chosen in such manner as may be prescribed:

Provided that the Central Advisory Committee shall include an equal number of members representing the Government, the employers and persons engaged in beedi establishments and that at least one member of such Committee shall be a woman.

(3) The Chairman of the Central Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of all members of the Central Advisory Committee.

7. Power to co-opt.—(1) An Advisory Committee or the Central Advisory Committee may, at any time and for such period as it thinks fit, co-opt any person or persons to the Advisory Committee.

(2) A person co-opted under sub-section (1) shall exercise all the powers and functions of a member under this Act but shall not be entitled to vote.

(3) The Advisory Committee or the Central Advisory Committee may, if it considers it necessary or expedient so to do, invite any person to attend its meeting and when such person attends any meeting, he shall not be entitled to vote thereat.

8. Appointment of Welfare Commissioners, etc. and their powers.—(1) The Central Government may appoint as many Welfare Commissioners, Welfare Administrators, Inspectors and such other officers and staff as it thinks necessary for the purposes of this Act and the Beedi Workers Welfare Cess Act, 1976.

(2) The Central Government may, by general or special order, direct a Welfare Commissioner to appoint such staff as is considered necessary for the purposes of this Act and the Beedi Workers Welfare Cess Act, 1976.

(3) Every person appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

(4) Any Welfare Commissioner, Welfare Administrator or Inspector, may,—

(a) with such assistance, if any, as he may think fit, enter at any reasonable time, any place which he considers it necessary to enter for carrying out the purposes of this Act;

(b) do within such place anything necessary for the proper discharge of his duties; and

(c) exercise such other powers as may be prescribed.

9. Power of Central Government to exempt.—Notwithstanding anything contained in this Act, if the Central Government is satisfied that there is in force in any State or part thereof a law making adequate provision for the financing of activities to promote the welfare of persons engaged in beedi establishments, it may, by notification in the Official Gazette, direct that all or any of the provisions of this Act shall not apply or shall apply to such State

or part thereof subject to such exemptions and modifications as may be specified in the notification.

10. Annual report of activities financed under the Act.—The Central Government shall, as soon as may be, after the end of each financial year, cause to be published in the Official Gazette, a report giving an account of its activities financed under this Act during the previous financial year together with a statement of accounts.

11. Power to call for information.—The Central Government may require a State Government or a local authority or an employer to furnish, for the purposes of this Act, such statistical and other information in such form and within such period as may be prescribed.

12. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the manner in which the Fund may be applied for the measures and facilities specified in sub-section (1) of section 4;
- (b) the conditions governing the grant of loan or subsidy under clause (b) of sub-section (1) of section 4;
- (c) the conditions governing grant-in-aid under clause (c) of sub-section (1) of section 4;
- (d) the standard of welfare measures and facilities to be provided under clause (c) of sub-section (1) of section 4;
- (e) the determination of the amounts referred to in sub-clause (ii) of clause (c) of sub-section (1) of section 4 and the proviso to that clause;
- (f) the composition of the Advisory Committees and the Central Advisory Committee constituted under sections 5 and 6 respectively, the manner in which the members thereof shall be chosen, the term of office of such members, the allowances, if any, payable to them, and the manner in which the Advisory Committees and the Central Advisory Committee shall conduct their business;
- (g) the recruitment conditions of service and the duties of all persons appointed under section 8;
- (h) the power that may be exercised by a Welfare Commissioner, a Welfare Administrator or an Inspector under section 8;
- (i) the furnishing to the Central Government by a State Government or a local authority or an employer of such statistical and other information as may be required to be furnished under section 11;
- (j) the forms in which and the period within which statistical and other information are to be furnished under clause (i);
- (k) any other matter which has to be or may be prescribed, or provided for, by rules under this Act.

(3) In making any rule under clause (i) or clause (j) of sub-section (2), the Central Government may direct that a breach thereof shall be punishable with fine which may extend to five hundred rupees.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Assented to on 10-4-76.

THE BETWA RIVER BOARD ACT, 1976

(Act No. 63 of 1976)

AN

ACT

to provide for the establishment of a Board for the creation of a reservoir at Rajghat by construction, on behalf of the Governments of Madhya Pradesh and Uttar Pradesh, of a dam on the Betwa river at Rajghat and for the regulation of such reservoir.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title and commencement.—(1) This Act may be called the Betwa River Board Act, 1976.

(2) It shall come into force on such date as the Central Government may, after consultation with the Governments of Madhya Pradesh and Uttar Pradesh, by notification in the Official Gazette, appoint.

2. Declaration as to expediency of control by the Union.—It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the regulation and development of the inter-State Betwa River and River Valley to the extent hereinafter provided.

3. Definitions.—In this Act, unless the context otherwise requires,—

- (a) "Board" means the Betwa River Board established under section 4;
- (b) "Chairman" means the Chairman of the Board;
- (c) "Executive Committee" means the Executive Committee constituted under section 5;
- (d) "member" means a member of the Board and includes the Chairman;
- (e) "prescribe" means prescribed by rules made by the Central Government under section 22;
- (f) "Rajghat Dam" means the Dam described in the Schedule;
- (g) "Rajghat Reservoir" means the reservoir created by the construction of the Rajghat Dam;
- (h) "regulations" means regulations made by the Board under section 23;
- (i) "rules" means rules made by the Central Government under section 22.

CHAPTER II

ESTABLISHMENT OF THE BOARD

4. Establishment and incorporation of the Betwa River Board.—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established for the purposes of this Act, a Board to be called the Betwa River Board.

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire hold and dispose of property both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Union Minister in charge of Irrigation shall be the Chairman of the Board and the other members of the Board shall be the following namely:—

- (a) the Chief Ministers of Madhya Pradesh and Uttar Pradesh;
- (b) the Ministers of Madhya Pradesh and Uttar Pradesh incharge of Finance and Irrigation:

Provided that when a proclamation made under article 356 of the Constitution is in force in relation to the State of Madhya Pradesh or Uttar Pradesh, the Central Government may appoint three persons to represent such State on the Board and the persons so appointed shall vacate their offices upon the revocation or cesser of operation of such proclamation.

4. The Board may permit any officer of the Central Government or the Government of Madhya Pradesh or Uttar Pradesh to attend any of its meetings and take part in the proceedings but such officer shall not be entitled to vote.

(5) The Board may associate with itself, in such manner and for such purposes as may be determined by regulations, any person whose assistance or advice it may desire in complying with any of the provisions of this Act and a person so associated shall have the right to take part in the discussions of the Board relevant to the purpose for which he has been associated, but shall not be entitled to vote.

5. Executive Committee.—(1) The Central Government may, by notification in the Official Gazette, constitute an Executive Committee consisting of officers of that Government and officers of the Governments of Madhya Pradesh and Uttar Pradesh.

(2) The composition of the Executive Committee shall be such as may be prescribed:

Provided that—

- (a) an Officer of the Central Government shall be the Chairman of the Committee;
- (b) the Governments of Madhya Pradesh and Uttar Pradesh shall have equal representation.

(3) Subject to the general superintendence and control of the Board, the management of the affairs of the Board shall vest in the Executive Committee and the Chairman and other members of the Committee shall assist the Board in such manner as the Board may require.

(4) Subject to the rules, and to the directions of the Board, the Executive Committee may exercise any power and to do any act or thing which may be exercised or done by the Board.

(5) The procedure to be followed by the Executive Committee and all other matters relating to the Executive Committee shall be such as may be prescribed.

6. Vacancies, etc., not to invalidate proceedings of the Board or the Executive Committee.—No act or proceeding of the Board or the Executive Committee shall be invalidated by reason of—

- (a) any vacancy in the Board or the Executive Committee;
- (b) any defect in the composition of, or in any appointment to, the Board or the Executive Committee;
- (c) any irregularity in the procedure of the Board or the Executive Committee not affecting the merits of the case.

7. Chief Engineer and Financial Adviser.—(1) The Central Government may, after consultation with the Governments of Madhya Pradesh and Uttar Pradesh, appoint an Engineer (to be the Chief Engineer of the Board and to be known as the Chief Engineer, Rajghat Dam Project), and a Financial Adviser, and a Secretary to the Board from amongst the officers of the Governments of Madhya Pradesh and Uttar Pradesh :

Provided that the Central Government shall, so far as practicable, ensure that officers from the same State do not hold the posts of Chief Engineer and Secretary at the same time.

(2) Subject to the general superintendence and control of the Board and the Executive Committee, the Chief Engineer of the Board appointed under sub-section (1) shall be the Chief Executive Officer of the Board and shall exercise and discharge—

- (a) such powers and duties as may be prescribed or as may be delegated to him by the Board;
- (b) such other powers and duties as may be determined by regulations.

(3) The Financial Adviser appointed under sub-section (1) shall be the Chief Accounts Officer of the Board.

(4) The terms and conditions of service of the Chief Engineer of the Board, and of the Financial Adviser, and the Secretary to the Board shall be such as may be prescribed.

8. Other officers and employees of the Board.—(1) Subject to the rules, the Board may appoint such officers and employees as it may deem necessary for the efficient discharge of its functions :

Provided that the Board shall, as far as practicable, utilise the services of the officers and employees offered by the Governments of Madhya Pradesh and Uttar Pradesh in such a manner that equal representation is given to the two States.

(2) The terms and conditions of service of the officers and employees of the Board shall be such as may be determined by regulations.

9. Advisory Committees.—Subject to the rules, the Board may from time to time, constitute one or more

Advisory Committees to assist the Board and the Executive Committee in the efficient discharge of their functions.

CHAPTER III

FUNCTONS AND POWERS OF THE BOARD

10. *Functions of the Board.*—Subject to the other provisions of this Act and the rules, the Board may, if satisfied that the Governments of Madhya Pradesh and Uttar Pradesh have complied with or arranged to comply with the conditions specified in section 11,—

- (a) carry out surveys and investigations in the Betwa Inter-State river valley and prepare a comprehensive project report for the construction of Rajghat Dam and appurtenant works and finalise the same after consulting the Governments of Madhya Pradesh and Uttar Pradesh and taking into account the suggestions if any made by those Governments;
- (b) prepare detailed reports and estimates in respect of the Project and allocate the cost among the Governments of Madhya Pradesh and Uttar Pradesh;
- (c) draw up standards and specifications for implementation of the project and for the maintenance thereof;
- (d) construct the Rajghat Dam and the common carrier from the dam to irrigate areas in Madhya Pradesh and Uttar Pradesh;
- (e) lay down rules of operation and management of Rajghat Dam;
- (f) perform any other function which is supplemental incidental, or consequential to all or any, of the functions specified in clauses (a) to (e).

11. *Conditions subject to which the Board may exercise its functions.*—(1) The exercise by the Board of the functions specified in section 10 shall be subject to the following conditions, namely :—

- (i) that the Governments of Madhya Pradesh and Uttar Pradesh shall at all times make, to the satisfaction of the Board, suitable provisions as to the moneys, land facilities and electrical power for construction and all other things required by the Board;
- (ii) that the liability for the entire expenditure on the Rajghat Dam including appurtenant works and all other expenditure incurred by the Board in the discharge of its functions shall be shared by the Governments of Madhya Pradesh and Uttar Pradesh in such proportion as may be specified by the Board;

Provided that the Board may specify different proportions for different works or matters having regard to the benefits which may accrue to the States and other relevant factors;

- (iii) that the Governments of Madhya Pradesh and Uttar Pradesh shall extend full co-operation to the Board and shall in particular make available to the Board the land and electric power required by it for construction purposes as expeditiously as possible.

(2) For the purposes of clause (ii) of sub-section (1), the expenditure on the Rajghat Dam shall include the expenditure incurred by the Government of Uttar Pradesh on the Rajghat Dam Project before the establishment of

the Board and the Board shall determine the amount of expenditure so incurred by the Government of Uttar Pradesh and the extent to which it shall be reimbursed by the Government of Madhya Pradesh.

12. *Powers of the Board.*—(1) Subject to the provisions of this Act and the rules, the Board shall have the power to do anything which may be necessary or expedient for the purposes of carrying out its functions under this Act.

(2) Without prejudice to the generality of the foregoing provisions, such power shall include the powers—

- (a) to acquire hold and dispose of such properties both movable and immovable as the Board deems necessary;
- (b) to publish statistics or other information relating to the various aspects of flood control and drainage in the Betwa River Valley and the regulation of Rajghat Reservoir;
- (c) to require the Governments of Uttar Pradesh and Madhya Pradesh to furnish such information as the Board may require in the discharge of its functions.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

13. *Betwa River Board Fund.*—(1) There shall be constituted a Fund to be called the Betwa River Board Fund and there shall be credited thereto the sums paid to the Board by the Governments of Madhya Pradesh and Uttar Pradesh and all other sums received by the Board.

(2) The Fund shall be applied—

- (a) for meeting the salaries, allowances and other remuneration of the officers and other employees of the Board and other administrative expenses of the Board;
- (b) for meeting the expenditure on surveys and investigations undertaken by the Board;
- (c) for meeting the cost of construction of the Rajghat Dam and appurtenant works;
- (d) for meeting the other expenses of the Board in the discharge of its functions under this Act.

14. *Budget.*—The Board shall prepare in such form and at such time each year as may be prescribed its budget for the next financial year showing the estimated expenditure, the amount of expenditure which the State Governments of Madhya Pradesh and Uttar Pradesh have undertaken to provide for and forward the same to the Central Government and the said State Governments.

15. *Annual report.*—(1) The Board shall prepare in such form and at such time each year as may be prescribed its annual report giving a full account of its activities during the previous year and forward copies thereof to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

(2) The Board shall forward copies of its annual reports to the Governments of Madhya Pradesh and Uttar Pradesh.

16. *Accounts and audit.*—The accounts of the Board shall be maintained and audited in such manner as may, in consultation with the Comptroller and Auditor-General of India, be prescribed.

CHAPTER V

MISCELLANEOUS

17. Directions by Central Government.—In the discharge of its functions, the Board shall be guided by such directions and instructions on questions of policy as may be given to it by the Central Government.

18. Disputes between the Board and the State Governments.—If any dispute arises between the Board and the Government of Madhya Pradesh or Uttar Pradesh or both regarding any matter covered by this Act or touching or arising out of it, it shall be referred to the Central Government and the decision of the Central Government shall be final and binding on the Board and the said Governments.

19. Power to enter.—Subject to any rules made in this behalf, any officer of the Board generally or specially authorised by the Board in this behalf may, at all reasonable times, enter upon any land or premises and there do such things as may be reasonably necessary for the purpose of lawfully carrying out any works or of making any surveys, examination or investigation, preliminary or incidental to the exercise of any power or the performance, of any function by the Board under this Act:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house, unless with the consent of the occupier thereof, without previously giving such occupier at least seven days' notice in writing of his intention to do so.

20. Members, officers and employees of the Board to be public servants.—All members of the Board and the Executive Committee and all officers and employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

21. Protection of action taken in good faith.—(1) No suit, prosecution or other legal proceedings shall lie against the Central Government or the Government of Madhya Pradesh or Uttar Pradesh or any member of the Board or the Executive Committee or any officer or employee of the Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations.

(2) No suit or other legal proceedings shall lie against the board for any damage caused or likely to be caused by anything in good faith done or purported to be done under this Act or the rules or regulations and, in particular, it shall not be the responsibility of the Board to provide for relief measures necessitated by floods or by breaches and failure of works.

22. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the composition of, and the procedure to be followed, by the Executive Committee and all other matters relating to the Executive Committee, under sub-sections (2) and (5) of section 5;

- (b) the powers and duties which may be exercised or discharged by the Chief Engineer of the Board, under clause (a) of sub-section (2) of section 7;
- (c) the terms and conditions of service of the Chief Engineer of, and the Financial Adviser and the Secretary to, the Board, under sub-section (4) of section 7;
- (d) appointment of officers and employees of the Board, under sub-section (1) of section 8;
- (e) the form in which and the time at which the budget and annual report of the Board shall be prepared, under section 14 and sub-section (1) of section 15;
- (f) the manner in which the accounts of the Board shall be maintained and audited, under section 16;
- (g) the form and manner in which disputes may be referred under section 18 to the Central Government and the procedure to be followed by the Central Government for the settlement of such disputes.

23. Power to make regulations.—(1) The Board may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with this Act and the rules, for enabling it to discharge its functions under this Act.

(2) Without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (a) the manner in which and the purposes for which the Board may associate with itself any persons, under sub-section (5) of section 4;
- (b) the powers which may be exercised and the duties which may be discharged by the Chief Engineer of the Board, under sub-section (2) (b) of section 7;
- (c) the terms and conditions of service of the officer's (other than the Chief Engineer of the Board, Financial Adviser and Secretary to the Board) and other employees of the Board, under sub-section (2) of section 8.

24. Rules and regulations to be laid before Parliament.—Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, as the case may be, or both Houses agree that the rule or regulation, as the case may be, should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

THE SCHEDULE

[See section 3(f)]

DESCRIPTION OF RAJGHAT DAM

The Dam is to be built across the Betwa river about one furlong upstream of Lalitpur Chanderi Causeway at Rajghat on the river Betwa, District Lalitpur of Uttar Pradesh. The Dam will comprise a masonry section in the river bed and earthen flanks on both sides. It will also include the earth dam to be constructed in the saddles on either side for creating a reservoir.

LAW DEPARTMENT**NOTIFICATIONS***Simla-2, the 6th January, 1976*

No. LLR-E(9) 12/76.—The East Punjab Urban Rent Restriction (Chandigarh Amendment) Ordinance, 1976 (Ordinance No. 14 of 1976) promulgated by the President of India and published in the Gazette of India, Extraordinary, Part II, Section 1, is hereby republished in the Himachal Pradesh Government Rajpathra for the information of general public.

**THE EAST PUNJAB URBAN RENT RESTRICTION
(CHANDIGARH AMENDMENT) ORDINANCE, 1976**

(No. 14 OF 1976)

Promulgated by the President in the Twenty-seventh Year of the Republic of India

An Ordinance further to amend the East Punjab Urban Rent Restriction Act, 1949, as in force in the Union territory of Chandigarh.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance, namely:—

1. Short title and commencement.—(1) This Ordinance may be called the East Punjab Urban Rent Restriction (Chandigarh Amendment) Ordinance, 1976.

(2) It shall come into force at once.

2. East Punjab Act III of 1949 to be temporarily amended.—During the period of operation of this Ordinance, the East Punjab Urban Rent Restriction Act, 1949, as in force in the Union territory of Chandigarh (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3, 4, 5, 6, 7 and 8.

3. Amendment of section 2.—In section 2 of the principal Act, in clause (h), for the words “the Schedule to this Act”, the words and figure “Schedule I to this Act” shall be substituted.

4. Amendment of section 13.—In section 13 of the principal Act,—

(a) in sub-section (3), the following *Explanation* shall be inserted at the end, namely:—

‘Explanation.—For the purposes of this sub-section, “residential building” includes a schedule building.’;

(b) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) Where a landlord who, having evicted any tenant from a residential or a scheduled building in pursuance of an order made under section 13A,

(a) does not occupy it, or

(b) within a period of three years from the date of such eviction of the tenant, lets out, without obtaining the written permission of the Controller for so doing, the whole or any part of such residential or scheduled building, to any person other than tenant evicted from it,

the evicted tenant may apply to the Controller for an order directing that the possession of such residential or scheduled building or, part thereof, as the case may be, shall be restored to him and the Controller shall make an order accordingly.”.

5. Insertion of new section 13A.—After section 13 of the principal Act, the following section shall be inserted, namely:—

“13A. Right to recover immediate possession of residential or scheduled building to accrue to certain persons.—

(1) Where a landlord who, being a person in occupation of any residential building allotted to him by the Central Government or any local authority, is required by, or in pursuance of, any general or special order made by that Government or authority, to vacate such residential building, or in default, to incur certain obligations, on the ground that he owns, in the Union territory of Chandigarh, a residential or a scheduled building either in his own name or in the name of his wife or dependent child, there shall accrue, on and from the date of such order, to such landlord, notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract (whether express or implied), custom or usage to the contrary, a right to recover immediately the possession of any residential or scheduled building let out by him:

Provided that nothing in this section shall be construed as conferring a right on a landlord owning, in the Union territory of Chandigarh two or more residential or scheduled buildings, whether in his own name or in the name of his wife or dependent child, to recover the possession of more than one residential or scheduled building and it shall be lawful for such landlord to indicate the residential or scheduled building, possession of which he intends to recover:

Provided further that where any residential or scheduled building contains more than one residential unit, nothing in this section shall be construed as conferring a right on the landlord to recover possession of more than such number of residential units as are sufficient for his own use and occupation and for this purpose, it shall be lawful for the landlord to indicate the residential unit or units, the possession of which he intends to recover.

(2) Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract, custom or usage to the contrary, where the landlord exercises the right of recovery conferred on him by sub-section (1), no compensation shall be payable by him to the tenant or any person claiming through or under him and no claim for such compensation shall be entertained by any court, tribunal or other authority:

Provided that where the landlord had received,

- (a) any rent in advance from the tenant, he shall, within a period of ninety days from the date of recovery of possession of the residential or scheduled building by him, refund to the tenant such amount as represents the rent payable for the unexpired portion of the contract, agreement or lease;
- (b) any other payment, he shall, within the period aforesaid, refund to the tenant a sum which shall bear the same proportion to the total amount so received, as the unexpired portion of the contract or agreement or lease bears to the total period of contract of agreement or lease:

Provided further that, if any default is made in making any refund as aforesaid, the landlord shall be liable to pay simple interest at the rate of six per cent. per annum on the amount which he has omitted or failed to refund.”.

6. Insertion of new sections 18A and 18B.—After section 18 of the principal Act, the following sections shall be inserted, namely:—

“18A. Section 18B to have over-riding effect.—Section 18B or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained elsewhere in this Act or in any other law for the time being in force.

18B. Special procedure for disposal of applications for eviction on the ground of bona fide requirement.—(1) Every application by a landlord for the recovery of possession of any residential or scheduled building on the ground specified in section 13A shall be dealt with in accordance with the procedure specified in this section.

(2) The Controller shall issue summons, in relation to every application referred to in sub-section (1), in the form specified in Schedule II to this Act.

(3) (a) The Controller shall, in addition to, and simultaneously with, the issue of summons for service on the tenant, also direct the summons to be served by registered post, acknowledgment due, addressed to the tenant or his agent empowered to accept the service at the place where the tenant or his agent actually and voluntarily resides or carries on business or personally works for gain and may, if the circumstances of the case so require, also direct the publication of the summons in a newspaper circulating in the locality in which the tenant is last known to have resided or carried on business or personally worked for gain.

(b) When an acknowledgment purporting to be signed by the tenant or his agent is received by the Controller or the registered article containing the summons is received back with an endorsement purporting to have been made by a postal employee to the effect that the tenant or his agent had refused to take delivery of the registered article, the Controller may declare that there has been a valid service of summons.

(4) The tenant on whom the summons is duly served (whether in the ordinary way or by registered post) in the form specified in Schedule II to this Act shall not contest the prayer for eviction from the residential or scheduled building unless he files an affidavit stating the grounds on which he seeks to contest the application for eviction

and obtains leave from the Controller as hereinafter provided; and in default of his appearance in pursuance of the summons or his obtaining such leave, the statement made by the landlord in the application for eviction shall be deemed to be admitted by the tenant and the applicant shall be entitled to an order for eviction on the ground aforesaid.

(5) The Controller shall give to the tenant leave to contest the application if the affidavit filed by the tenant discloses such facts as would disentitle the landlord from obtaining an order for the recovery of possession of the residential or scheduled building on the ground specified in section 13A.

(6) Where leave is granted to the tenant to contest the application, the Controller shall commence the hearing of the application as early as practicable.

(7) Notwithstanding anything contained in this Act, the Controller shall, while holding an inquiry in a proceeding to which this section applies, follow the practice and procedure of a Court of Small Causes including the recording of evidence.

(8) No appeal or second appeal shall lie against an order for the recovery of possession of any residential or scheduled building made by the Controller in accordance with the procedure specified in this section:

Provided that the High Court may, for the purpose of satisfying itself that an order made by the Controller under this section is according to law, call for the records of the case and pass such order in respect thereto as it thinks fit.

(9) Where no application has been made to the High Court for revision, the Controller may exercise the powers of review in accordance with the provisions of Order XLVII of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908).

(10) Save as otherwise provided in this section, the procedure for the disposal of an application for eviction on the ground specified in section 13A shall be the same as the procedure for the disposal of applications by Controllers.”

7. Amendment of section 19.—In section 19 of the Principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) A landlord who, having evicted a tenant from a residential or a scheduled building in pursuance of an order made under section 13A, does not occupy it or lets it out in contravention of the provisions of sub-section (4A) of section 13, shall be punishable with imprisonment for a term which may extend to two years and with fine.”.

8. Addition of Schedule II.—The existing Schedule to the principal Act shall be numbered as Schedule I thereof and, after the Schedule as so numbered, the following Schedule shall be added, namely:—

"SCHEDULE II"

[See section 18B]

FORM OF SUMMONS IN A CASE WHERE RECOVERY OF POSSESSION OF RESIDENTIAL OR SCHEDULED BUILDING IS PRAYED FOR ON THE GROUND SPECIFIED IN SECTION 13A OF THE EAST PUNJAB URBAN RENT RESTRICTION ACT, 1949, AS IN FORCE IN THE UNION TERRITORY OF CHANDIGARH

To

[Name, description and place of residence of the tenant.]

WHEREAS Shri..... has filed an application (a copy of which is annexed) for your eviction from (here insert the particulars of the residential or scheduled building) on the ground specified in section 13A of the East Punjab Urban Rent Restriction Act, 1949, as in force in the Union territory of Chandigarh;

You are hereby summoned to appear before the Controller within fifteen days of the service hereof and to obtain the leave of the Controller to contest the application for eviction on the ground aforesaid; in default whereof, the applicant will be entitled at any time after the expiry of the said period of fifteen days to obtain an order for your eviction from the said residential or scheduled building.

Leave to appear and contest the application may be obtained on an application to the Controller supported by an affidavit as is referred to in sub-section (5) of section 18B of the said Act.

Given under my hand and seal.

This day of 19 .

Controller".

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secretary to the Government of India.

Simla-171002, the 29th January, 1977

No. LLR-E(9)12/76.—Notification No. G.S.R. 15(E), dated the 14th January, 1977, of the Government of India, Ministry of Law, Justice and Company Affairs regarding enforcement of the provisions of the Code of Civil Procedure (Amendment) Act, 1976 (Act No. 104 of 1976), which has already been published in the Gazette of India Extraordinary, part II, section 3, sub-section (1), is hereby republished in the Himachal Pradesh Government Rajpatra, for the information of general public.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

NOTIFICATION

New Delhi, the 14th January, 1977

G.S.R. 15(E).—In exercise of the powers conferred by sub-section (2) of section 1 of the Code of Civil Procedure (Amendment) Act, 1976 (104 of 1976), the Central Government hereby appoints—

- (i) the 1st day of February, 1977, as the date on which the provisions of the said Act (except sections 12, 13 and 50) shall come into force; and
- (ii) the 1st day of May, 1977 as the date on which sections 12 and 50 of the said Act shall come into force.

[No. F. 13(4)/76-L I.]

K. K. SUNDARAM,
Secretary.

विधि, न्याय और कम्पनी कार्य मंत्रालय

(विधायी विभाग)

अधिसूचना

नई दिल्ली, 14 जनवरी, 1977

सा० का० नि० 15 (अ).—सिविल प्रक्रिया संहिता (संशोधन) अधिनियम, 1976 (1976 का 104) की धारा 1 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार—

- (i) सन् 1977 की फरवरी के प्रथम दिन को उस तारीख के रूप में नियत करती है जिसको उक्त अधिनियम के उपबन्ध (सिवाएं धाराएं 12, 13 और 50 के) प्रवृत्त होंगे; और
- (ii) सन् 1977 की मई के प्रथम दिन को उस तारीख के रूप में नियत है जिसको उक्त अधिनियम की धाराएं 12 और 50 प्रवृत्त होंगी।

[सा० का० 13(4)/76-वि. 1]

M. C. PADAM,
Under Secretary (Judicial).

के० के० सुन्दरम्,
सचिव ।

Assented to on 21st May, 1976

THE WORKMEN'S COMPENSATION

(AMENDMENT) ACT, 1976

(ACT NO. 65 OF 1976)

AN

ACT

further to amend the Workmen's Compensation Act, 1923.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Workmen's Compensation (Amendment) Act, 1976.

(2) Sections 2 and 4 shall be deemed to have come into force on the 1st day of October, 1975 and the remaining provisions shall come into force at once.

2. Amendment of section 2.—In section 2 of the Workmen's Compensation Act, 1923 (8 of 1923), (hereinafter referred to as the principal Act), in sub-section (1), in sub-clause (ii) of clause (n), for the words "five hundred rupees", the words "one thousand rupees" shall be substituted.

3. Amendment of section 36.—In section 36 of the principal Act, for the words "two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following", the words "two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

4. Substitution of new Schedule for Schedule IV.—For Schedule IV to the principal Act, the following Schedule shall be substituted, namely:—

“SCHEDULE IV

(See section 4)

COMPENSATION PAYABLE IN CERTAIN CASES

Monthly wages of the workman injured 1	Amount of compensation for—		Half-monthly payment as compensation for temporary disablement 4
	Death 2	Permanent total disablement 3	
More than Rs.	But not more than Rs.	Rs.	Rs.
0	60	7,200	10,080
60	90	9,720	14,608
90	120	11,520	16,128
120	150	13,500	18,900
150	200	16,800	23,520
200	300	18,000	25,200
300	400	19,200	26,880
400	500	21,000	29,400
500	600	21,600	30,240
600	700	23,100	32,340
700	800	24,000	33,600
800	900	27,000	37,800
900	1000	30,000	42,000
			175.00.”

Assented to on 27th May, 1976

THE FINANCE ACT, 1976

(ACT NO. 66 OF 1976)

AN

ACT

to give effect to the financial proposals of the Central Government for the financial year 1976-77.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Finance Act, 1976.

(2) Save as otherwise provided in this Act, sections 2 to 30 and section 43 shall be deemed to have come into force on the 1st day of April, 1976.

CHAPTER II

RATES OF INCOME TAX

2. *Income-tax.*—(1) Subject to the provisions of sub-sections (2), (3) and (4), for the assessment year commencing on the 1st day of April, 1976, income-tax shall be charged at the rates specified in Part I of the First Schedule and shall be increased,—

(a) in the cases to which Paragraphs A, B, C and D of that Part apply, by a surcharge for purposes of the Union; and

(b) in the cases to which Paragraphs E and F of that Part apply, by a surcharge,

calculated in each case in the manner provided therein.

(2) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income, in addition to total income, and the total income exceeds eight thousand rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) (that is to say, as if the net agricultural income were comprised in the total income after the first eight thousand rupees of the total income but without being liable to tax only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of eight thousand rupees and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the

case may be, Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount by which income-tax determined in accordance with sub-clause (i) exceeds the amount of income-tax determined in accordance with sub-clause (ii) shall be the income-tax chargeable in respect of the total income.

(3) Where in the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956, (31 of 1956) the total income includes any profits and gains from life insurance business, the income-tax payable by it shall be the aggregate of the income-tax calculated—

(i) on the amount of profits and gains from life insurance business so included, at the rate applicable in the case of the Life Insurance Corporation of India in accordance with Paragraph E of Part I of the First Schedule, to that part of its total income which consists of profits and gains from life insurance business; and

(ii) on the remaining part of its total income, at the rate applicable to the company on its total income.

(4) In cases to which the provisions of Chapter XII or section 164 of the Income-tax Act, 1961 (43 of 1961), (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194D and 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule.

(6) Subject to the provisions of sub-section (7), in cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged, under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the rate or rates specified in Part III of the First Schedule:

Provided that in cases to which the provisions of Chapter XII or section 164 of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be :

Provided further that an assessee, being a company, may, in lieu of payment of surcharge on income-tax at the rate specified in Paragraph E of Part II of the First Schedule, make a deposit under the scheme framed under sub-section (8) before the last instalment of advance tax is due in its case, and where it does so,—

(i) in a case where the amount of the deposit so made is equal to or exceeds the amount of surcharge on

income-tax payable by it, the amount of surcharge on income-tax payable by it shall be *nil*;

(ii) in a case where the amount of the deposit so made falls short of the amount of surcharge on income-tax payable by it, the amount of surcharge on income-tax payable by it shall stand reduced by the amount of the deposit; and

(iii) any order made by the Income-tax Officer under section 210 of the Income-tax Act and the notice of demand issued in pursuance thereof shall have effect as if the amount of surcharge on income-tax specified therein had been reduced to *nil* or, as the case may be, by the amount of the deposit.

(7) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income, in addition to total income, and the total income exceeds eight thousand rupees, then, in calculating income-tax under the first proviso to sub-section (5) of section 132 of the Income-tax Act or in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) (that is to say, as if the net agricultural income were comprised in the total income after the first eight thousand rupees of the total income but without being liable to tax), only for the purpose of calculating, charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be calculated, charged or computed as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of eight thousand rupees and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount by which income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (i) exceeds the amount of income-tax or "advance tax" determined in accordance with sub-clause (ii) shall be the income-tax or "advance tax" in respect of the total income.

(8) Where an assessee, being a company, makes, during the financial year commencing on the 1st day of April, 1976, any deposit with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964),

under any such scheme as the Central Government may, by notification in the Official Gazette, frame in this behalf, then, the surcharge on income-tax payable by the company for the assessment year commencing on the 1st day of April, 1977,—

(i) in a case where the amount of deposit so made is equal to or exceeds the amount of surcharge on income-tax payable by it, shall be *nil*; and

(ii) in a case where the amount of the deposit so made falls short of the amount of surcharge on income-tax payable by it, shall be reduced by the amount of the deposit.

(9) For the purposes of this section and the First Schedule,—

(a) "company in which the public are substantially interested" means a company which is such a company as is referred to in section 108 of the Income-tax Act;

(b) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1976, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of section 194 of that Act;

(c) "industrial company" means a company which is mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining.

Explanation.—For the purposes of this clause, a company shall be deemed to be mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining, if the income attributable to any one or more of the aforesaid activities included in its total income of the previous year (as computed before making any deduction under Chapter VIA of the Income-tax Act) is not less than fifty-one per cent of such total income;

(d) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuation, renewal or revival of policies of insurance);

(e) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(f) "tax-free security" means any security of the Central Government issued or declared to be income-tax free, or any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government;

(g) all other words and expressions used in this section or in the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act.

CHAPTER III

DIRECT TAXES

Income-tax

3. *Amendment of section 2.*—In the Income-tax Act, in section 2, with effect from the 1st day of June, 1976,—

(a) after clause (28), the following clause shall be inserted, namely:—

(28A) “interest” means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised;”;

(b) in clause (37A), in sub-clause (i),—

(i) for the words and figures “in a case not falling under section 164”, the words, figures and letters “in a case not falling under section 115A or section 115B or section 164” shall be substituted;

(ii) for the words and figures “in a case falling under section 164, the rate specified in that section”, the words, figures and letters “in a case falling under section 115A or section 115B or section 164, the rate or rates specified in section 115A or section 115B or, as the case may be, section 164” shall be substituted.

4. *Amendment of section 9.*—In the Income-tax Act, in section 9, in sub-section (1), with effect from the 1st day of June, 1976,—

(a) in clause (i), the words “or through or from any money lent at interest and brought into India in cash or in kind” shall be omitted,

(d) after clause (iv), the following clauses shall be inserted, namely:—

(v) income by way of interest payable by—

(a) the Government; or

(b) a person who is a resident, except where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India; or

(c) a person who is a non-resident, where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person in India;

(vi) income by way of royalty payable by—

(a) the Government; or

(b) a person who is a resident, except where the royalty is payable in respect of any right, property or information used or services utilised for the purposes of a business or profession carried on by such person outside

India or for the purposes of making or earning any income from any source outside India; or

(c) a person who is a non-resident, where the royalty is payable in respect of any right, property or information used or services utilised for the purposes of a business or profession carried on by such person in India or for the purposes of making or earning any income from any source in India:

Provided that nothing contained in this clause shall apply in relation to so much of the income by way of royalty as consists of lump sum consideration for the transfer outside India of, or the imparting, of information outside India in respect of, any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process or trade mark or similar property, if such income is payable in pursuance of an agreement made before the 1st day of April, 1976 and the agreement is approved by the Central Government.

Explanation 1.—For the purposes of the foregoing proviso, an agreement made on or after the 1st day of April, 1976 shall be deemed to have been made before that date if the agreement is made in accordance with proposals approved by the Central Government before that date; so, however, that, where the recipient of the income by way of royalty is a foreign company, the agreement shall not be deemed to have been made before that date unless, before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139 (whether fixed originally or on extension) for furnishing the return of income for the assessment year commencing on the 1st day of April, 1977, or the assessment year in respect of which such income first becomes chargeable to tax under this Act, whichever assessment year is later, the company exercises an option by furnishing a declaration in writing to the Income-tax Officer (such option being final for that assessment year and for every subsequent assessment year) that the agreement may be regarded as an agreement made before the 1st day of April, 1976.

Explanation 2.—For the purposes of this clause, “royalty” means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head “Capital gains”) for—

- (i) the transfer of all or any rights (including the granting of a licence) in respect of a patent, invention, model, design, secret formula or process or trade mark or similar property;
- (ii) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret formula, or process or trade mark or similar property;
- (iii) the use of any patent, invention, model, design, secret formula or process or trade mark or similar property;

- (iv) the imparting of any information concerning technical, industrial, commercial or scientific knowledge, experience or skill;
- (v) the transfer of all or any rights (including the granting of a licence) in respect of any copyright, literary, artistic or scientific work including films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting, but not including consideration for the sale, distribution or exhibition of cinematographic films; or
- (vi) the rendering of any services in connection with the activities referred to in sub-clauses (i) to (v);
- (vii) income by way of fees for technical services payable by—
 - (a) the Government; or
 - (b) a person who is a resident, except where the fees are payable in respect of services utilised in a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India; or
 - (c) a person who is a non-resident, where the fees are payable in respect of services utilised in a business or profession carried on by such person in India or for the purposes of making or earning any income from any source in India.

Explanation.—For the purposes of this clause, “fees for technical services” means any consideration (including any lump sum consideration) for the rendering of any managerial technical or consultancy services (including the provision of services of technical or other personnel) but does not include consideration for any construction, assembly, mining or like project undertaken by the recipient or consideration which would be income of the recipient chargeable under the head “Salaries”.

5. Amendment of section 10.—In section 10 of the Income-tax Act,—

- (a) in clause (6), after sub-clause (x), the following sub-clause shall be inserted, namely:—
 - “(xi) the remuneration received by him as an employee of the Government of a foreign State during his stay in India in connection with his training in any establishment or office of, or in any undertaking owned by,—
 - (i) the Government; or
 - (ii) any company in which the entire paid-up share capital is held by the Central Government, or any State Government or Governments, or partly by the Central Government and partly by one or more State Governments; or
 - (iii) any company which is a subsidiary of a company referred to in item (ii); or
 - (iv) any corporation established by or under a Central, State or Provincial Act; or

- (v) any society registered under the Societies Registration Act, 1860 (14 of 1860), or under any other corresponding law for the time being in force and wholly financed by the Central Government or any State Government or State Governments, or partly by the Central Government and partly by one or more State Governments;”;

(b) in clause (15), after item (e) of sub-clause (iv), the following item shall be inserted with effect from the 1st day of June, 1976, namely:—

- (f) by an industrial undertaking in India on any moneys borrowed by it in foreign currency from sources outside India under a loan agreement approved by the Central Government having regard to the need for industrial development in India, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment.

Explanation.—For the purposes of this item, the expression “foreign currency” shall have the meaning assigned to it in the Foreign Exchange Regulation Act, 1973 (46 of 1973);

- (c) in clause (17), for the words “any Committee thereof;”, the words, brackets and figures “any Committee thereof or any allowance received by a member of either House of Parliament under the Members of Parliament (Additional Facilities) Rules, 1975;” shall be substituted.

6. Amendment of section 13.—In section 13 of the Income-tax Act, in sub-section (5) [as directed to be inserted by clause (iii) of section 5 of the Taxation Laws (Amendment) Act, 1975 (41 of 1975)], for clause (a) (iii), the following clause shall be substituted with effect from the 1st day of April, 1977, namely:—

- “(iii) deposit in any account with the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955) or any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959) or any nationalised bank, that is to say, any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970);”.

7. Amendment of section 32.—In section 32 of the Income-tax Act, in sub-section (1),—

- (1) in clause (iv), for the words “seven thousand five hundred rupees”, the words “ten thousand rupees” shall be substituted with effect from the 1st day of April, 1977;

(2) in clause (vi),—

- (a) for the words “any one or more of the articles or things specified in the list in the Ninth Schedule”, the words, figures and brackets “any one or more of the articles or things specified in items 1 to 24 (both inclusive) in the list in the Ninth Schedule” shall be substituted;

(b) in the second proviso,—

- (i) in clause (a), the word “and” shall be omitted;
- (ii) in clause (b), the word “and” shall be inserted at the end;

(iii) after clause (b), the following clause shall be inserted, namely:—

“(c) any ship or aircraft acquired after the 31st day of March, 1976 or any machinery or plant installed after that date.”.

8. Insertion of new section 32A.—After section 32 of the Income-tax Act, the following section shall be inserted, namely:—

32A. Investment Allowance.—(1) In respect of a ship or an aircraft or machinery or plant specified in sub-section (2), which is owned by the assessee and is wholly used for the purposes of the business carried on by him, there shall, in accordance with and subject to the provisions of this section, be allowed a deduction, in respect of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed or, if the ship, aircraft, machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year, of a sum by way of investment allowance equal to twenty-five per cent of the actual cost of the ship, aircraft, machinery or plant to the assessee:

Provided that no deduction shall be allowed under this section in respect of—

- (a) any machinery or plant installed in any office premises or any residential accommodation, including any accommodation in the nature of a guest-house;
- (b) any office appliances or road transport vehicles;
- (c) any ship, machinery or plant in respect of which the deduction by way of development rebate is allowable under section 33; and
- (d) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise in computing the income chargeable under the head “Profits and gains of business or profession” of any one previous year).

(2) The ship or aircraft or machinery or plant referred to in sub-section (1) shall be the following namely:—

- (a) a new ship or new aircraft acquired after the 31st day of March, 1976 by an assessee engaged in the business of operation of ships or aircraft;
- (b) any new machinery or plant installed after the 31st day of March, 1976—
 - (i) for the purposes of business of generation or distribution of electricity or any other form of power; or
 - (ii) for the purposes of business of construction, manufacture or production of any one or more of the articles or things specified in the list in the Ninth Schedule; or
 - (iii) in a small scale industrial undertaking for the purpose of business of manufacture or production of any other articles or things.

Explanation.—For the purposes of this sub-section and sub-section (4),—

- (1) “new ship” or “new aircraft” or “new machinery or plant” shall have the same meanings as in the *Explanation* to clause (vi) of sub-section (1) of section 32;
- (2) an industrial undertaking shall be deemed to be a small scale industrial undertaking, if the aggregate value of the machinery and plant

(other than tools, jigs, dies and moulds) installed, as on the last day of the previous year, for the purposes of the business of the undertaking does not exceed ten lakh rupees; and for this purpose the value of any machinery or plant shall be,—

- (a) in the case of any machinery or plant owned by the assessee, the actual cost thereof to the assessee; and
 - (b) in the case of any machinery or plant hired by the assessee, the actual cost thereof as in the case of the owner of such machinery or plant.
- (3) Where the total income of the assessee assessable for the assessment year relevant to the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, or, as the case may be, the immediately succeeding previous year [the total income for this purpose being computed after deduction of the allowances under section 33 and section 33A, but without making any deduction under sub-section (1) of this section or any deduction under Chapter VIA] is *nil* or is less than the full amount of the investment allowance,—

- (i) the sum to be allowed by way of investment allowance for that assessment year under sub-section (1) shall be only such amount as is sufficient to reduce the said total income to *nil*; and
- (ii) the amount of the investment allowance, to the extent to which it has not been allowed as aforesaid, shall be carried forward to the following assessment year, and the investment allowance to be allowed for the following assessment year shall be such amount as is sufficient to reduce the total income of the assessee assessable for that assessment year, computed in the manner aforesaid, to *nil*, and the balance of the investment allowance, if any, still outstanding shall be carried forward to the following assessment year and so on, so, however, that no portion of the investment allowance shall be carried forward for more than eight assessment years immediately succeeding the assessment year relevant to the previous year in which the ship or aircraft was acquired or the machinery or plant was installed or, as the case may be, the immediately succeeding previous year.

Explanation.—Where for any assessment year, investment allowance is to be allowed in accordance with the provisions of this sub-section in respect of any ship or aircraft acquired or any machinery or plant installed in more than one previous year, and the total income of the assessee assessable for that assessment year [the total income for this purpose being computed after deduction of the allowances under section 33 and section 33A, but without making any deduction under sub-section (1) of this section or any deduction under Chapter VIA] is less than the aggregate of the amounts due to be allowed in respect of the assets aforesaid for that assessment year, the following procedure shall be followed, namely:—

- (a) the allowance under clause (ii) shall be made before any allowance under clause (i) is made and

(b) where an allowance has to be made under clause (ii) in respect of amounts carried forward from more than one assessment year, the amount carried forward from an earlier assessment year shall be allowed before any amount carried forward from a later assessment year.

(4) The deduction under sub-section (1) shall be allowed only if the following conditions are fulfilled, namely:—

- (i) the particulars prescribed in this behalf have been furnished by the assessee in respect of the ship or aircraft or machinery or plant;
- (ii) an amount equal to seventy-five per cent of the investment allowance to be actually allowed is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account (to be called the "Investment Allowance Reserve Account") to be utilised—

(a) for the purposes of acquiring, before the expiry of a period of ten years next following the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, a new ship or a new aircraft or new machinery or plant [other than machinery or plant of the nature referred to in clauses (a), (b) and (d) of the proviso to sub-section (1)] for the purposes of the business of the undertaking; and

(b) until the acquisition of a new ship or a new aircraft or new machinery or plant as aforesaid, for the purposes of the business of the undertaking other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India:

Provided that this clause shall have effect in respect of a ship as if for the word "seventy-five", the word "fifty" had been substituted.

Explanation.—Where the amount debited to the profit and loss account and credited to the Investment Allowance Reserve Account under this sub-section is not less than the amount required to be so credited on the basis of the amount of deduction in respect of investment allowance claimed in the return made by the assessee under section 139, but a higher deduction in respect of the investment allowance is admissible on the basis of the total income as proposed to be computed by the Income-tax Officer under section 143, the Income-tax Officer shall, by notice in writing in this behalf, allow the assessee an opportunity to credit within the time specified in the notice or within such further time as the Income-tax Officer may allow, a further amount to the Investment Allowance Reserve Account out of the profits and gains of the previous year in which such notice is served on the assessee or of the immediately preceding previous year, if the accounts for that year have not been made up; and, if the assessee credits any further amount to such account within the time aforesaid, the amount so credited shall be deemed to have been credited to the Investment Allowance Reserve Account

of the previous year in which the deduction is admissible and such amount shall not be taken into account in determining the adequacy of the reserve required to be credited by the assessee in respect of the previous year in which such further credit is made:

Provided that such opportunity shall not be allowed by the Income-tax Officer in a case where the difference in the total income as proposed to be computed by him and the total income as returned by the assessee arise out of the application of the proviso to sub-section (1) of section 145 or sub-section (2) of that section or the omission by the assessee to disclose his income fully and truly.

(5) Any allowance made under this section in respect of any ship, aircraft, machinery or plant shall be deemed to have been wrongly made for the purposes of this Act—

(a) if the ship, aircraft, machinery or plant is sold or otherwise transferred by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired or installed; or

(b) if at any time before the expiry of ten years from the end of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, the assessee does not utilise the amount credited to the reserve account under sub-section (4) for the purposes of acquiring a new ship or a new aircraft or new machinery or plant [other than machinery or plant of the nature referred to in clauses (a), (b) and (d) of the proviso to sub-section (1)] for the purpose of the business of the undertaking; or

(c) if at any time before the expiry of the ten years aforesaid, the assessee utilises the amount credited to the reserve account under sub-section (4) for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any assets outside India or for any other purpose which is not a purpose of the business of the undertaking,

and the provisions of sub-section (4A) of section 155 shall apply accordingly :

Provided that nothing in clause (a) shall apply—

(i) where the ship, aircraft, machinery or plant is sold or otherwise transferred by the assessee to the Government, a local authority a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956); or

(ii) where the sale or transfer of the ship, aircraft, machinery or plant is made in connection with the amalgamation or succession, referred to in sub-section (6) or sub-section (7).

(6) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers to the amalgamated company any ship, aircraft, machinery or plant,

in respect of which investment allowance has been allowed to the amalgamating company under sub-section (1),—

- (a) the amalgamated company shall continue to fulfil the conditions mentioned in sub-section (4) in respect of the reserve created by the amalgamating company and in respect of the period within which such ship, aircraft, machinery or plant shall not be sold or otherwise transferred and in default of any of these conditions, the provisions of sub-section (4A) of section 155, shall apply to the amalgamated company as they would have applied to the amalgamating company had it committed the default; and
 - (b) the balance of investment allowance, if any, still outstanding to the amalgamating company in respect of such ship, aircraft, machinery or plant, shall be allowed to the amalgamated company in accordance with the provisions of sub-section (3), so however, that the total period for which the balance of investment allowance shall be carried forwarded in the assessments of the amalgamating company and the amalgamated company shall not exceed the period of eight years specified in sub-section (3) and the amalgamated company shall be treated as the assessee in respect of such ship, aircraft, machinery or plant for the purposes of this section.
 - (7) Where a firm is succeeded to by a company in the business carried on by it as a result of which the firm sells or otherwise transfers to the company any ship, aircraft, machinery or plant, the provisions of clauses (a) and (b) of section (6) shall, so far as may be, apply to the firm and the company.
- Explanation.*—The provisions of this sub-section shall apply only where—
- (i) all the property of the firm relating to the business immediately before the succession becomes the property of the company;
 - (ii) all the liabilities of the firm relating to the business immediately before the succession become the liabilities of the company; and
 - (iii) all the shareholders of the company were partners of the firm immediately before the succession.
- (8) The Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette, direct that the deduction allowable under this section shall not be allowed in respect of any ship or aircraft acquired or any machinery or plant installed after such date, not being earlier than three years from the date of such notification, as may be specified therein.
 - (9) For the removal of doubts, it is hereby declared that the deduction under sub-section (1) shall not be denied by reason only that the amount debited to the profit and loss account of the relevant previous year and credited to the Investment Allowance Reserve Account exceeds the amount of the profit of such

previous year (as arrived at without making the debit aforesaid), in accordance with the profit and loss account.'

9. Amendment of section 37.—In section 37 of the Income Tax Act,—

(a) in sub-section (2A),—

- (i) in clause (i), for the words, figures and letter, "section 33 or section 33A", the words, figures and letters "section 32A or section 33 or section 33 A" shall be substituted;
- (ii) in the Explanation, the words, brackets, figure and the letter "and sub-section (2B)" shall be omitted with effect from the 1st day of April, 1977.

(b) sub-section (2B) shall be omitted with effect from the 1st day of April, 1977;

10. Insertion of new sections 44C and 44D.—In the Income-tax Act, in Chapter IV-D, after section 44B, the following sections shall be inserted, with effect from the 1st day of June, 1976, namely:—

44C. Deduction of head office expenditure in the case of non-residents.— Notwithstanding anything to the contrary contained in sections 28 to 43 A, in the case of an assessee, being a non-resident no allowance shall be made, in computing the income chargeable under the head "Profits and gains of business or profession", in respect of so much of the expenditure in the nature of head office expenditure as is in excess of the amount computed as hereunder, Namely :—

- (a) an amount equal to five per cent of the adjusted total income; or
- (b) an amount equal to the average head office expenditure; or
- (c) the amount of so much of the expenditure in the nature of head office expenditure incurred by the assessee as is attributable to the business or profession of the assessee in India,

which ever is the least:

Provided that in a case where the adjusted total income of the assessee is a loss, the amount under clause (a) shall be computed at the rate of five per cent of the average adjusted total income of the assessee.

Explanation.—For the purposes of this section,—

- (i) "adjusted total income" means the total income computed in accordance with the provisions of this Act, without giving effect to the allowance referred to in this section or in sub-section (2) of section 32 or the deduction referred to in section 32A or section 33 or section 33A or the first proviso to clause (ix) of sub-section (1) of section 36 or any loss carried forward under sub-section (1) of section 72 or sub-section (2) of section 73 or sub-section (1) of section 74 or sub-section (3) of section 74 A or the deductions under Chapter VIA;
- (ii) "average adjusted total income" means,—

(a) in a case where the total income of the assessee is assessable for each of the three

- assessment years immediately preceding the relevant assessment year, one-third of the aggregate amount of the adjusted total income in respect of the previous years relevant to the aforesaid three assessment years;
- (b) in a case where the total income of the assessee is assessable only for two of the aforesaid three assessment years, one-half of the aggregate amount of the adjusted total income in respect of the previous years relevant to the aforesaid two assessment years;
- (c) in a case where the total income of the assessee is assessable only for one of the aforesaid three assessment years, the amount of the adjusted total income in respect of the previous year relevant to that assessment year;
- (iii) "average head office expenditure" means,—
- (a) in a case where any expenditure in the nature of head office expenditure has been allowed as a deduction in computing the income of the assessee chargeable under the head "Profits and gains of business or profession" in respect of each of the three previous years relevant to the assessment years commencing on the 1st day of April, 1974, the 1st day of April, 1975 and the 1st day of April, 1976, one third of the aggregate amount of the expenditure so allowed;
 - (b) in a case where such expenditure has been so allowed only in respect of two of the aforesaid three previous years, one-half of the aggregate amount of the expenditure so allowed;
 - (c) in a case where such expenditure has been so allowed only in respect of one of the aforesaid three previous years, the amount of the expenditure so allowed;
- (iv) "head office expenditure" means executive and general administration expenditure incurred by the assessee outside India, including expenditure incurred in respect of—
- (a) rent, rates, taxes, repairs or insurance of any premises outside India used for the purposes of the business or profession;
 - (b) salary, wages, annuity, pension, fees, bonus, commission, gratuity, prequisites or profits, in lieu of or in addition to salary, whether paid or allowed to any employee or other person employed in, or managing the affairs of, any office outside India;
 - (c) travelling by any employee or other person, employed in, or managing the affairs of, any office outside India; and
 - (d) such other matters connected with executive and general administration as may be prescribed.

44 D. Special provisions for computing income by way of royalties, etc. in the case of foreign companies.—Notwithstanding anything to the contrary contained in sections 28 to 44C, in the case of an assessee, being a foreign company,—

- (a) the deductions admissible under the said sections in computing the income by way of royalty or fees for technical services received from an Indian concern in pursuance of an agreement made by the foreign company with the Indian concern before the 1st day of April, 1976, shall not exceed in the aggregate twenty per cent of the gross amount of such royalty or fees as reduced by so much of the gross amount of such royalty as consists of lump sum consideration for the transfer outside India of, or the imparting of information outside India in respect of, any data, documentation, drawing or specification relating to any patent, invention model, design, secret formula or process or trade mark or similar property;
- (b) no deduction in respect of any expenditure or allowance shall be allowed under any of the said sections in computing the income by way of royalty or fees for technical services received from an Indian concern in pursuance of an agreement made by the foreign company with the Indian concern after the 31st day of March, 1976.

Explanation.—For the purposes of this section,—

- (a) "fees for technical services" shall have the same meaning as in the Explanation to clause (vii) of sub-section (1) of section 9;
- (b) "foreign company" shall have the same meaning as in section 80 B;
- (c) "royalty" shall have the same meaning as in the Explanation to clause (vi) of sub-section (1) of section 9;
- (d) royalty received from an Indian concern in pursuance of an agreement made by a foreign company with the Indian concern after the 31st day of March, 1976 shall be deemed to have been received in pursuance of an agreement made before the 1st day of April, 1976 if such agreement is deemed, for the purposes of the proviso to clause (vi) of sub-section (1) of section 9, to have been made before the 1st day of April, 1976.'

11. Amendment of section 47.—In section 47 of the Income-tax Act, after clause (viii), the following clause shall be inserted with effect from the 1st day of April, 1977, namely:—

- (ix) any transfer of a capital asset, being any work of art, archaeological scientific or art collection, book, manuscript, drawing painting, photograph or print, to the Government or a University or the National Museum, National Art Gallery, National Archives or any such other public museum or institution as may be notified by the Central Government in the Official Gazette to be of national importance or to be of renown throughout any State or States.

Explanation.—For the purposes of this clause, "University" means a University established or incorporated by or under a Central, State or Provincial Act, and includes an institution declared under section 3 of the University Grants Commission Act, 1956(3 of 1956) to be a University for the purposes of that Act..

12. Omission of section 54C.—In section 54C of the Income-tax Act shall be omitted.

13. Amendment of section 57.—In section 57 of the Income-tax Act, the following proviso and Explanation shall be inserted at the end, with effect from the 1st day of June, 1976, namely:—

“Provided that nothing contained in clause (i) or clause (iii) shall apply in computing the income by way of dividends in the case of an assessee, being a foreign company.”

Explanation.—For the purposes of this section and section 58, “foreign company” shall have the same meaning as in section 80B.”.

14. Amendment of section 58.—In section 58 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted, with effect from the 1st day of June, 1976, namely :—

“(3) In the case of an assessee, being a foreign company, the provisions of section 44 D shall, so far as may be apply in computing the income chargeable under the head “Income from other sources” as they apply in computing the income chargeable under the head “Profits and gains of business or profession”.”.

15. Amendment of section 80A.—In section 80A of the Income-tax Act, after sub-section (3), the following sub-section shall be inserted with effect from the 1st day of April, 1977, namely :—

“(4) Notwithstanding anything contained in sub-section (1), no deduction under section 80 G or section 80GG or section 80 HH or section 80 J or section 80 L or section 80 QQ shall be allowed in computing the total income of an assessee, being a Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year exceeds the maximum amount not chargeable to tax.”.

16. Amendment of section 80C.—In section 80C of the Income-tax Act, in clause (d) of sub-section (2), for the words “eight thousand rupees”, the words “ten thousand rupees” shall be substituted with effect from the 1st day of April, 1977.

17. Amendment of section 80G.—In section 80G of the Income-tax Act,—

(a) for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of April, 1977, namely:—

“(1) In computing the total income of an assessee, there shall be deducted, in accordance with and subject to the provisions of this section,—

(i) in a case where the aggregate of the sums specified in sub-section (2) includes any sum specified in sub-clause (vii) of clause (a) thereof, an amount equal to the whole of such sum plus fifty per cent of the balance of such aggregate; and

(ii) in any other case, an amount equal to fifty per cent of the aggregate of the sums specified in sub-section (2).”;

(b) in clause (a) of sub-section (2), with effect from the 1st day of April, 1977,—

(i) in sub-clause (v) for the words “for any charitable purpose”; the words “for any charitable purpose other than the purpose of promoting family planning or;” shall be substituted ;

(ii) after sub-clause (v) of the following sub clauses shall be inserted, namely:—

;“(vi) any authority referred to in clause (20A) of section 10; or

(vii) the Government or to any such local authority, institution or association as may be approved in this behalf by the Central Government, to be utilised for the purpose of promoting family planning;”;

(c) in sub-section (4), for the words, brackets and figures “sub-clauses (iv) and (v)”, the words brackets and figures “sub-clauses (iv) (v), (vi) and (vii)” shall be substituted with effect from the 1st day of April, 1977;

(d) after *Explanation 4*, the following *Explanation* shall be inserted namely:—

Explanation 5.—For the removal of doubts, it is hereby declared that no deduction shall be allowed under this section in respect of any donation unless such donation is of a sum of money.”.

18. Amendment of section 80M.—In section 80M of the Income tax-Act, for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of April, 1977, namely:—

“(1) Where the gross total income of an assessee, being a domestic company, includes any income by way of dividends from a domestic company, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such income by way of dividends of an amount equal to—

(a) in respect of such income by way of dividends from a company formed and registered under the Companies Act, 1956 (1 of 1956) after the 28th day of February, 1975 and engaged exclusively or almost exclusively in the manufacture or production of any one or more of the articles or things specified in items 2 and 3, item 4 (excluding alloy, malleable and S. G. iron castings), items 7 to 15 (both inclusive), items 17 and 18, item 23 (excluding refractories) and items 24, 26, 27 and 29 in the list in the Ninth Schedule: the whole of such income;

(b) in respect of such income by way of dividends other than the dividends referred to in clause (a) sixty per cent of such income.”.

19. Amendment of section 115.—In section 114 of the Income-tax Act, in clause (i) with effect from the 1st day of April, 1977,—

(a) in sub-clause (a) (1), for the words “forty seven per cent”, the words “forty per cent.” shall be substituted;

(b) in sub-clause (a) (2), for the words “fifty five per cent”, the words “fifty per cent”, shall be substituted ; and

(c) in sub-clause (b), for the words "forty five per cent", the words "forty per cent", shall be substituted.

20. Insertion of new sections 115A and 115B.—In the Income-tax Act, after section 115, the following sections shall be inserted with effect from the 1st day of June, 1976, namely:—

"115A. Tax on dividends royalty and technical service fees in the case of foreign companies.—(1) Subject to the provisions of sub-section (2), where the total income of an assessee, being a foreign company, includes any income by way of—

- (a) dividends; or
- (b) royalty or fees for technical services received from an Indian concern in pursuance of an agreement made by the foreign company with the Indian concerned after the 31st day of March, 1976 and approved by the Central Government,

the income-tax payable shall be the aggregate of—

- (i) the amount of income-tax calculated on the amount of income by way of dividends, if any, included in the total income, at the rate of twenty-five per cent;
 - (ii) the amount of income-tax calculated on the income by way of royalty, if any, included in the total income—
- (1) on so much of the amount of such income as consists of lump sum consideration for the transfer outside India of, or the imparting of information outside India in respect of, any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process or trade mark or similar property, at the rate of twenty per cent;
 - (2) on the balance of such income, if any, at the rate of forty per cent;
- (iii) the amount of income-tax calculated on the income by way of fees for technical services, if any, included in the total income, at the rate of forty per cent; and
 - (iv) the amount of income tax with which it would have been chargeable had its total income been reduced by the amount of income referred to in clauses (a) and clause (b).

Explanation.—For the purposes of this section,—

- (a) "fees for technical services" shall have the same meaning as in the *Explanation* to clause (vii) of sub-section (1) of section 9;
 - (b) "foreign company" shall have the same meaning as in section 80B;
 - (c) "royalty" shall have the same meaning as in the *Explanation* to clause (vi) of sub-section (1) of section 9.
- (2) Nothing contained in sub-section (1) shall apply in relation to any income by way of royalty received by a foreign company from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1976 if such agreement is deemed, for the purposes of the

proviso to clause (vi) of sub-section (1) of section 9, to have been made before the 1st day of April, 1976; and the provisions of the Annual Finance Act for calculating charging, deducting or computing income-tax shall apply in relation to such income as if such income had been received in pursuance of an agreement made before the 1st day of April, 1976.

Tax on profits and gains of life insurance business.—
115 B. Where the total income of an assessee includes any profits and gains from life insurance business, the income tax payable shall be the aggregate of—

- (i) the amount of income-tax calculated on the amount of profits and gains of the life insurance business included in the total income, at the rate of twelve and one-half per cent; and
- (ii) the amount of income-tax with which the assessee would have been chargeable had the total income of the assessee been reduced by the amount of profits and gains of the life insurance business.'.

21. Amendment of section 155.—In section 155 of the Income-tax Act, after sub-section (4), the following sub-section shall be inserted, namely:—

'(4A) Where an allowance by way of investment allowance has been made wholly or partly to an assessee in respect of a ship or an aircraft or any machinery or plant in any assessment year under section 32A and subsequently—

- (a) at any time before the expiry of eight years from the end of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, the ship, aircraft, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), or in connection with any amalgamation or succession referred to in sub-section (6) or sub-section (7) of section 32A; or
- (b) at any time before the expiry of ten years from the end of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, the assessee does not utilise the amount credited to the reserve account under sub-section (4) of section 32A for the purposes of acquiring a new ship or a new aircraft or new machinery or plant [other than machinery or plant of the nature referred in clauses (a), (b) and (d) of the proviso to sub-section (1) of section 32A] for the purposes of the business of the undertaking; or
- (c) at any time before the expiry of the ten years referred to in clause (b), the assessee utilises the amount credited to the reserve account under sub-section (4) of section 32A—
 - (i) for distribution by way of dividends or profits; or
 - (ii) for remittance outside India as profits or for the creation of any asset outside India; or
 - (iii) for any other purpose which is not a purpose of the business of the undertaking,

the investment allowance originally allowed shall be deemed to have been wrongly allowed, and the Income-tax Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned—

- (i) in a case referred to in clause (a), from the end of the previous year in which the sale or other transfer took place;
- (ii) in a case referred to in clause (b), from the end of the ten years referred to in that clause;
- (iii) in a case referred to in clause (c), from the end of the previous year in which the amount was utilised.

Explanation.—For the purposes of clause (b), “new ship” or “new aircraft” or “new machinery or plant” shall have the same meanings as in the *Explanation* to clause (vi) of sub-section (1) of section 32.’.

22. Amendment of section 195.—In the Income-tax Act, in section 195, in sub-section (2), for the words “other than interest including interest on securities”, the words “other than interest on securities” shall be substituted with effect from the 1st day of June, 1976.

23. Amendment of First Schedule.—In the First Schedule to the Income-tax Act with effect from the 1st day of April, 1977,—

(a) for rule 2, the following rule shall be substituted, namely:—

“2. Computation of profits of life insurance business.—The profits and gains of life insurance business shall be taken to be the annual average of the surplus arrived at by adjusting the surplus or deficit disclosed by the actuarial valuation made in accordance with the Insurance Act, 1938 (4 of 1938), in respect of the last inter-valuation period ending before the commencement of the assessment year, so as to exclude from it any surplus or deficit included therein which was made in any earlier inter-valuation period.”;

(b) rule 3 shall be omitted;
(c) in rule 7, in sub-rule (1), clauses (i) and (iii) shall be omitted.

24. Amendment of Eighth Schedule.—In the Eighth Schedule to the Income-tax Act,—

(a) against Bihar in column (1), for the existing areas specified in column (2), the following shall be substituted, namely:—

“The districts of Aurangabad, Begusarai, Bhojpur, Darbhanga, East Champaran, Gaya, Madhubani, Monghyr, Muzaffarpur, Nalanda, Nawadah, Palamau, Purnea, Saharsa, Samastipur, Santal Parganas, Saran, Sitamarhi, Siwan, Vaishali and West Champaran.”;

(b) against Punjab in column (1), for the existing areas specified in column (2), the following shall be substituted namely:—

“The district of Bhatinda; so much of the district of Faridkot as formed part of the district of Bhatinda on the 31st day of July, 1972; the districts of Ferozepur, Gurdaspur, Hoshiarpur and Sangrur.”;

(c) after *Rajasthan* in column (1) and the entries relating thereto, the following shall be inserted, namely:—

“*Sikkim* The whole of the State.”;

(d) against *Uttar Pradesh* in column (1), for the existing areas specified in column (2), the following shall be substituted, namely:—

“The districts of Almora, Azamgarh, Bahraich, Ballia, Banda, Bara Banki, Basti, Budaun, Balandshahr, Chamoli, Deoria; Etah, Etawah, Faizabad, Farrukhabad, Fatehpur, Garhwal, Ghazipur, Gonda, Hamirpur, Hardoi, Jalaun, Jaunpur, Jhansi, Mainpuri, Mathura, Maraband, Pilibhit, Pithoragarh, Pratapgarh, Rae Bareli, Rampur, Shahjahanpur, Sitapur, Sultanpur, Tehri-Garhwal, Unnao and Uttar-Kashi.”;

(e) for the *Explanation*, the following *Explanation* shall be substituted namely:—

“Explanation.—Save as otherwise expressly provided, reference to any district in this Schedule shall be construed,—

(i) in the case of the districts of Aurangabad, Begusarai, Bhojpur, Gaya, Monghyr, Nalanda and Nawadah in the State of Bihar; the district of Ferozepur in the State of Punjab; and the district of Rampur in the State of Uttar Pradesh, as a reference to the areas comprised in the district concerned on the 15th day of March, 1976, being the date of introduction of the Finance Bill, 1976 in the House of the People; and

(ii) in the case of any other district, as a reference to the areas comprised in that district on the 3rd day of September, 1973, being the date of introduction of the Direct Taxes (Amendment) Bill, 1973 in the House of the People.”.

25. Amendment of Ninth Schedule.—In the Ninth Schedule to the Income-tax Act,—

(a) for item 4, the following item shall be substituted, namely:—

“4. Steel castings and forgings and alloy, malleable and S. G. iron castings.”;

(b) after item 24 and before the *Explanation*, the following items shall be inserted, namely:—

“25. Carbon and graphite products.

26. Inorganic heavy chemicals (other than soda ash and caustic soda mentioned in items 12 and 13 respectively).

27. Organic heavy chemicals.

28. Synthetic rubber and rubber chemicals (including carbon black).

29. Industrial explosives.

30. Basic drugs.

31. Industrial sewing machines.

32. Finished leather and leather goods (including footwear made wholly or mainly of leather).”.

26. Consequential amendments to certain sections.—The following amendments (being amendments of a consequential nature) shall be made in the Income-tax Act, namely:—

- (a) in section 45, the figures and letter “,54C” shall be omitted;
- (b) in clause (iv) of sub-section (2) of section 141A, for the words, brackets and figures “the deduction referred to in clause (ii) of sub-section (2) of section 33”, the words, brackets, figures and letter “the deduction referred to in clause (ii) of sub-section (3) of section 32A or clause (ii) of sub-section (2) of section 33” shall be substituted;
- (c) in sub-clause (iv) of clause (b) of sub-section (1) of section 143, for the words, brackets and figures “the deduction referred to in clause (ii) of sub-section (2) of section 33”, the words, brackets, figures and letter “the deduction referred to in clause (ii) of sub-section (3) of section 32A or clause (ii) of sub-section (2) of section 33” shall be substituted;
- (d) in clause (i) of sub-section (1) of section 160, the words, brackets and figure “clause (i) of” shall be omitted with effect from the 1st day of June, 1976;
- (e) in the Ninth Schedule, for the brackets, words and figures “[See section 32 (1)(iv)]”, the brackets, words, figures and letters “[See section 32 (1)(vi) and section 32A (2) (b)(ii)]” shall be substituted.

Wealth tax

27. Amendment of Act 27 of 1957.—In the Wealth tax Act, 1957,—

(1) in section 3, for the words “at the rate or rates specified in the schedule”, the words and figures “at the rate or rates specified in Schedule I” shall be substituted with effect from the 1st day of April, 1977;

(2) in section 5, in sub-section (1),—

(a) after clause (ivb) the following clause shall be inserted with effect from the 1st day of April, 1977, namely:—

“(ivc) one or more dwelling units (each such dwelling unit having a plinth area not exceeding eighty square metres) and the land appurtenant thereto, belonging to the assessee, where the construction of such dwelling unit or units is begun on or after the 1st day of April, 1976:

Provided that this exemption shall apply in respect of any dwelling unit or units and the land appurtenant thereto only for a period of five successive assessment years next following the date on which the construction of such dwelling unit or units is completed.

Explanation.—For the purposes of this clause,—

- (a) “dwelling unit” means a unit of accommodation used solely for the purpose of residence;
- (b) “land appurtenant”, in relation to any dwelling unit or units comprising a building, means,—
- (i) in an area where there is any law in force providing for the minimum extent of

land contiguous to the land occupied by any building to be kept as open space for the enjoyment of such building, the minimum extent of land contiguous to the land occupied by the building comprising such dwelling unit or units required to be kept as open space under such law;

(ii) in any other area, an extent of land not exceeding one-third of the plinth area of the building comprising the dwelling unit or units at the ground level contiguous to the land occupied by such building;’;

(b) after clause (x), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1975, namely:—

“(xa) the amount of any fee due to the assessee in respect of services rendered by him as a legal practitioner within the meaning of the Advocates Act, 1961 (25 of 1961);”;

(c) after clause (xxx), the following clause shall be inserted, namely:—

“(xxxa) the value of any building belonging to the assessee, where the building is used solely for the purpose of residence of persons employed by the assessee in any plantation or industrial undertaking belonging to the assessee and the income of each such person chargeable under the head “Salaries” under the Income-tax Act is ten thousand rupees or less;’;

(d) in the *Explanation* to clause (xxx),—

(i) for the words “this clause” the words, brackets, figures and letter “clause (xxxa), this clause” shall be substituted;

(ii) for the words, brackets and figures “and clause (xxxii)”, the words, brackets and figures “clause (xxxii), and clause (xxxiv)” shall be substituted with effect from the 1st day of April, 1977;

(e) after clause (xxxii), the following clauses shall be inserted with effect from the 1st day of April, 1977, namely:—

“(xxxiii) in the case of an assessee, being a person of Indian origin who was ordinarily residing in a foreign country and who, on leaving such country, has returned to India with the intention of permanently residing therein, moneys and the value of assets brought by him into India and the value of the assets acquired by him out of such moneys:

Provided that this exemption shall apply only for a period of seven successive assessment years commencing with the assessment year next following the date on which such person returned to India.

Explanation.—A person shall be deemed to be of Indian origin if he, or either of his parents or any of his grandparents, was born in undivided India;

(xxxiv) in the case of an individual being a citizen of India, who is not resident in India during the year ending on the valuation date, the value of any equity shares in any company of the type referred to in clause (d) of section

45 which is engaged in the business of manufacture or production of any one or more of the articles or things specified in Schedule II or which is certified by the prescribed authority to have undertaken the export of such percentage of its total production as may be specified in this behalf by the prescribed authority, where such shares form part of the initial issue of the equity share capital made by the company after the 31st day of March, 1976 or where such shares form part of an issue of equity share capital which is certified by the prescribed authority to have been made by the company after the 31st day of March, 1976 for the purposes of expansion or diversification of its industrial undertaking.

Explanation.—An individual shall be deemed to be not resident in India during the year ending on the valuation date if in respect of that year the individual is not resident in India within the meaning of the Income-tax Act.”;

(3) in section 7,—

- (a) in sub-section (3), for the words “the valuation date”, the words, brackets and figure “the valuation date, or, in the case of an asset being a house referred to in sub-section (4), the valuation date referred to in that sub-section” shall be substituted;
- (b) after sub-section (3), the following sub-section shall be inserted namely:—

(4) Notwithstanding anything contained in section (1), the value of a house belonging to the assessee and exclusively used by him for residential purposes throughout the period of twelve months immediately preceding the valuation date may, at the option of the assessee, be taken to be the price which, in the opinion of the Wealth-tax Officer, it would fetch if sold in the open market on the valuation date next following the date on which he became the owner of the house, or on the valuation date relevant to the assessment year commencing on the 1st day of April, 1971, whichever valuation date is later:

Provided that where more than one house belonging to the assessee is exclusively used by him for residential purposes, the provisions of this sub-section shall apply only in respect of one of such houses which the assessee may, at his option, specify in this behalf in the return of net wealth.

Explanation.—For the purposes of this sub-section—

- (i) where the house has been constructed by the assessee, he shall be deemed to have become the owner thereof on the date on which the construction of such house was completed;
 - (ii) “house” includes a part of a house, being an independent residential unit.”;
- (4) in section 21, in sub-section (4), for the words “the Schedule”, at both the places where they occur, the word and figure “Schedule I” shall be substituted with effect from the 1st day of April, 1977;

- (5) in section 21A, in clause (a), for the words “the Schedule”, the word and figure “Schedule I” shall be substituted with effect from the 1st day of April, 1977;
- (6) the Schedule shall be numbered as Schedule I with effect from the 1st day of April, 1977 and with effect from that date—
- (a) in the Schedule as so numbered, for Part I, the following part shall be substituted, namely:—

“PART I

(1) In the case of every individual or Hindu undivided family, not being a Hindu undivided family to which item (2) of this Paragraph applies,—

Rate of tax

- | | |
|---|--|
| (a) where the net wealth does not exceed Rs. 5,00,000. | 1½ per cent of the net wealth; |
| (b) where the net wealth exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | Rs. 2,500 plus 1½ per cent of the amount by which the net wealth exceeds Rs. 5,00,000: |
| (c) where the net wealth exceeds Rs. 10,00,000 but does not exceed Rs. 15,00,000. | Rs. 10,000 plus 2 per cent of the amount by which the net wealth exceeds Rs. 10,00,000; |
| (d) where the net wealth exceeds Rs. 15,00,000. | Rs. 20,000 plus 1½ per cent of the amount by which the net wealth exceeds Rs. 15,00,000: |

Provided that for the purposes of this item,—

- (i) no wealth-tax shall be payable where the net wealth does not exceed Rs. 1,00,000;
- (ii) the wealth-tax payable shall, in no case, exceed 5 per cent of the amount by which the net wealth exceeds Rs. 1,00,000.

(2) In the case of every Hindu undivided family which has at least one member whose net wealth assessable for the assessment year exceeds Rs. 1,00,000,—

Rate of tax

- | | |
|--|--|
| (a) where the net wealth does not exceed Rs. 5,00,000. | 1½ per cent of the net wealth; |
| (b) where the net wealth exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000. | Rs. 7,500 plus 2 per cent of the amount by which the net wealth exceeds Rs. 5,00,000; |
| (c) where the net wealth exceeds Rs. 10,00,000. | Rs. 17,500 plus 2½ per cent of the amount by which the net wealth exceeds Rs. 10,00,000: |

Provided that for the purposes of this item,—

- (i) no wealth-tax shall be payable where the net wealth does not exceed Rs. 1,00,000;

- (ii) the wealth-tax payable shall, in no case, exceed 5 per cent of the amount by which the net wealth exceeds Rs. 1,00,000';
 (b) after the Schedule as so numbered, the following Schedule shall be inserted, namely:—

SCHEDULE II

[See section 5(1) (xxxiv)]

List of articles or things

1. Ferro alloys; steel castings and forgings; special steels; and nonferrous metals and their alloys.

2. Boilers and Steam Generating Plants.

3. Prime Movers (other than Electrical Generators), being industrial turbines or internal combustion engines.

4. Equipment for transmission and distribution of electricity; electrical motors; electrical furnaces; X-ray equipment; and electronic components and equipment.

5. Mechanised sailing vessels up to 1000 DWT; ship ancillaries; and commercial vehicles.

6. Industrial machinery.

7. Machine tools.

8. Agricultural machinery, being tractors or power tillers.

9. Earth-moving machinery.

10. Industrial instruments, being indicating, recording and regulating devices for pressure, temperature, rate of flow, weights, levels and the like.

11. Scientific instruments.

12. Nitrogenous and phosphatic fertilizers falling under "(1) Inorganic fertilizers" mentioned under the heading "18. Fertilisers" in the First Schedule to the Industries (Development and Regulation) Act, 1951. (65 of 1951).

13. Chemicals (other than fertilisers), namely:—

- (1) Inorganic heavy chemicals.
- (2) Organic heavy chemicals.
- (3) Fine chemicals including photographic chemicals.
- (4) Synthetic resins and plastics.
- (5) Synthetic rubbers.
- (6) Man-made fibres.

7. Industrial Explosives.

- (8) Insecticides, fungicides, weedicides and the like.
- (9) Synthetic detergents.
- (10) Miscellaneous chemicals (for industrial use only).

14. Drugs and pharmaceuticals.

15. Paper and pulp including paper products.

16. Automobile tyres and tubes.

17. Plate glass.

18. Ceramics, being refractories or furnace lining bricks—acidic basic and neutral.

19. Cement products, being portland cement or asbestos cement.'

Gift-tax

28. *Amendment of Act 18 of 1958.*—In section 5 of the Gift-tax Act, 1958, in clause (iv) of sub-section (1), after the words "local authority", the words, brackets, figures and letter "or any authority referred to in clause (20A) of section 10 of the Income-tax Act" shall be inserted with effect from the 1st day of April, 1977.

Surtax

29. *Amendment of Act 7 of 1964.*—In the Companies (Profits) Surtax Act, 1964,—

(a) in section 2, in clause (8), for the words "ten per cent.", at both the places where they occur, the words "fifteen per cent." shall be substituted with effect from the 1st day of April, 1977;

(b) in the First Schedule, in rule 3, for the portion beginning with the words "by the aggregate of—" and ending with the brackets, figures and words "(ii) any expenditure", the words "by the amount of any expenditure" shall be substituted with effect from the 1st day of April, 1977;

(c) in the Second Schedule,—

(i) in rule 1—

(1) in clause (ii), for the words, brackets and figures "sub-section (3) of section 34", the words, brackets, figures and letter "sub-section (4) of section 32A, or sub-section (3) of section 34" shall be substituted with effect from the 1st day of April, 1977; and

(2) clauses (iv) and (v) shall be omitted with effect from the 1st day of April, 1977;

(ii) after rule 1, the following rule shall be inserted, and shall be deemed to have been inserted with effect from the 1st day of April, 1975, namely:—

1A. Where a company has not made any credit in any account in its books as on the first day of the previous year relevant to the assessment year which is of the nature of item (8) or item (9) under the heading "CURRENT LIABILITIES AND PROVISIONS" in the column relating to "LIABILITIES" in the "FORM OF BALANCE-SHEET", given in Part I of Schedule VI to the Companies Act, 1956 (1 of 1956), or where the Income-tax Officer is of opinion that the amount credited in such account falls short of the amount which should have reasonably been credited by it, the amount of its capital as computed under rule 1 shall be reduced by the amount which has not been so credited or, as the case may be, the amount of such shortfall.

Explanation.—For the purposes of this rule, the amount of credit which should have reasonably been made by a company in relation to any account of the nature of item (9) aforesaid, means the amount of dividend declared or paid by the company, on or after the first day of the previous year relevant to the assessment year, for the previous year immediately preceding the first mentioned previous year.'

(iii) in rule 2, in clause (i), the brackets, words and figures “[other than the debentures referred to in clause (iv) or moneys referred to in clause (v) of rule 1]” shall be omitted with effect from the 1st day of April, 1977;

(iv) in rule 3, for the words, brackets and figures “or issue of the debentures referred to in clause (iv), or borrowing of any moneys referred to in clause (v) of rule 1 or is reduced by any amount on account of reduction of paid-up share capital or redemption of such debentures or repayment of any such moneys”, the words “or is reduced by any amount on account of reduction of paid-up share capital,” shall be substituted with effect from the 1st day of April, 1977.

Interest-tax

30. *Amendment of Act 45 of 1974.*—In section 2 of the Interest-tax Act, 1974, in clause (7), with effect from the 1st day of April, 1977,—

- (a) in sub-clause (i), the word “and” shall be omitted;
- (b) in sub-clause (ii), the word “and” shall be inserted at the end;
- (c) after sub-clause (ii), the following sub-clause shall be inserted, namely:—

“(iii) interest on moneys lent for the creation of a capital asset in India where the agreement under which such moneys are lent provides for the repayment thereof during a period of not less than even years.”.

CHAPTER IV

INDIRECT TAXES

31. *Amendment of Act 32 of 1934.*—The Indian Tariff Act, 1934 (hereinafter referred to as the Tariff Act) shall be amended in the manner specified in the Second Schedule.

32. *Auxiliary duties of customs.*—(1) In the case of goods mentioned in the First Schedule to the Tariff Act, of in that Schedule as amended from time to time, there shall be levied and collected as an auxiliary duty of customs an amount equal to twenty per cent of the value of the goods as determined in accordance with the provisions of section 14 of the Customs Act, 1962 (52 of 1962) (hereinafter referred to as the Customs Act):

Provided that on and from the date on which the Customs Tariff Act, 1975 (51 of 1975) comes into force, this sub-section shall have effect subject to the modification that for the words “First Schedule to the Tariff Act”, the words and figures “First Schedule to the Customs Tariff Act, 1975” (51 of 1975) shall be substituted.

(2) Sub-section (1) shall cease to have effect after the 30th day of June, 1977, except as respects things done or omitted to be done before such cesser, and section 6 of the General Clauses Act, 1897, (10 of 1897) shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

(3) The auxiliary duties of customs referred to in sub-section (1) shall be in addition to any duties of customs chargeable on such goods under the Customs Act, or any other law for the time being in force.

(4) The provisions of the Customs Act, and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties, shall as far as may be, apply in relation to the levy and collection of the auxiliary duties of customs leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of customs on such goods under that Act or those rules and regulations, as the case may be.

33. *Amendment of Act 1 of 1949.*—In the Indian Tariff (Amendment) Act, 1949, in sections 4 and 5, for the figures “1976”, the figures “1977” shall be substituted.

34. *Amendment of Act 51 of 1975.*—The Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), shall be amended in the manner specified in the Third Schedule.

35. *Amendment of Act 1 of 1944.*—The Central Excises and Salt Act, 1944 (hereinafter referred to as the Central Excises Act), shall be amended in the manner specified in the Fourth Schedule.

36. *Auxiliary duties of excise.*—(1) In the case of goods mentioned in the First Schedule to the Central Excises Act, or in that Schedule as amended from time to time, there shall be levied and collected as an auxiliary duty of excise an amount equal to twenty per cent of the value of the goods as determined in accordance with the provisions of section 4 of the Central Excises Act.

(2) Sub-section (1) shall cease to have effect after the 30th day of June, 1977, except as respects things done or omitted to be done before such cesser, and section 6 of the General Clauses Act, 1897 (10 of 1897) shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

(3) The auxiliary duties of excise referred to in sub-section (1) shall be in addition to any duties of excise chargeable on such goods under the Central Excise Act, or any other law for the time being in force.

(4) The auxiliary duties of excise leviable under sub-section (1) in the financial year 1975-76 shall be for the purposes of the Union and the proceeds thereof shall not be distributed among the States.

(5) The provisions of the Central Excises Act and the rules made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the auxiliary duties of excise leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules, as the case may be.

37. *Amendment of Act 58 of 1957.*—The Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the Additional Duties of Excise Act), shall be amended in the manner specified in the Fifth Schedule.

38. *Discontinuance of salt duty.*—For the year beginning on the 1st day of April, 1976, no duty under the Central

Excises Act or the Tariff Act or the Customs Tariff Act shall be levied in respect of salt manufactured in, or imported into, India.

39. Amendment of Act 16 of 1955.—In the Medicinal and Toilet Preparations (Excise Duties) Act 1955,—

- (a) for the words “opium, Indian hemp or other narcotic drug or narcotic”, wherever they occur, the words “narcotic drug or narcotic” shall be substituted;
- (b) in section 2,—
 - (i) after clause (a), the following clauses shall be inserted, namely:—
 - “(aa) “coca derivative” means—
 - (i) crude cocaine, that is, any extract of coca leaf which can be used, directly or indirectly, for the manufacture of cocaine;
 - (ii) ecgonine, that is, laevo-ecgonine having the chemical formula $C_9 H_{15} NO_3 H_2 O$, and all the derivatives of laevo-ecgonine from which it can be recovered; and
 - (iii) cocaine, that is, methyl-benzoyl-laevo-ecgonine having the chemical formula $C_17 H_{21} NO_4$, and its salts;
 - “(ab) “coca leaf” means—
 - (i) the leaf and young twigs of any coca plant, that is, of the Erythroxylon coca (Lamk.) and the Erythroxylon novo-granatense (Hiern.) and their varieties, and of any other species of this genus which the Central Government may, by notification in the Official Gazette, declare to be coca plants for the purposes of this Act; and
 - (ii) any mixture thereof, with or without neutral materials.”;
 - (ii) after clause (b) the following clause shall be inserted, namely:—
 - “(bb) “derivative of opium” means—
 - (i) medicinal opium, that is, opium which has undergone the processes necessary to adapt it for medicinal use;
 - (ii) prepared opium, that is, any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking, and the dross or other residue remaining after opium is smoked;
 - (iii) morphine, that is, the principal alkaloid of opium having the chemical formula $C_{17}H_{21}NO_3$, and its salts, and its derivatives.”;
 - (iii) for clause (e), the following clause shall be substituted, namely:—
 - “(e) “Indian hemp” means—
 - (i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang*, *siddhi* or *ganja*;
 - (ii) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport;
 - (iii) any mixture, with or without neutral materials, of any of the above forms of Indian hemp or any drink prepared therefrom; and
 - (iv) any extract or tincture of any of the above forms of Indian hemp.”;
 - (iv) for clause (h), the following clause shall be substituted, namely:—

“(h) “narcotic drug” or “narcotic” means a substance which is coca leaf, or coca derivative, or opium, or derivative of opium, or Indian hemp and shall include any other substance, capable of causing or producing in human beings dependence, tolerance and withdrawal syndromes and which the Central Government may, by notification in the Official Gazette, declare to be a narcotic drug or narcotic.”;

(c) the Schedule shall be amended in the manner specified in the Sixth Schedule.

CHAPTER V

MISCELLANEOUS

40. Amendment of Act 2 of 1899.—In the Indian Stamp Act, 1899, in Schedule I, in the column headed ‘Proper Stamp-duty’, with effect from the 1st day of June, 1976,—

- (a) in article No. 37, for the words “Fifteen naye paise”, the words “One rupee” shall be substituted;
- (b) in article No. 52, for the words “Fifteen naye paise”, the words “Thirty paise” shall be substituted;
- (c) in article No. 53, for the words “Ten naye paise”, the words “Twenty paise” shall be substituted.

41. Amendment of Act 31 of 1956.—After section 43 of the Life Insurance Corporation Act, 1956, the following section shall be inserted with effect from the 1st day of June, 1976, namely:—

“43A. Deduction of income-tax not to be made on interest or dividend.—Notwithstanding anything contained in section 193 or section 194 of the Income-tax Act, 1961 (43 of 1961), no deduction of income-tax shall be made on any interest or dividend payable to the Corporation in respect of any securities or shares owned by it or in which it has full beneficial interest.”.

42. Amendment of Act 52 of 1963.—In section 32 of the Unit Trust of India Act, 1963, in clause (b) of sub-section (1), for sub-clause (ii), the following sub-clause shall be substituted with effect from the 1st day of April, 1977, namely:—

“(ii) a Hindu undivided family, not being a Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year exceeds the maximum amount not chargeable to income-tax under the Income-tax Act, 1961 (43 of 1961), or”.

43. Amendment of Act 38 of 1974.—In the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974,—

- (a) in section 3, in sub-section (1), for the words, figures and letters “and the assessment year commencing on the 1st day of April, 1976.”, the words, figures and letters, “the assessment year commencing on the 1st day of April, 1976 and the assessment year commencing on the 1st day of April, 1977.” shall be substituted;
- (b) in section 4, in sub-section (1), for the words “a compulsory deposit for that assessment year at the rates specified in the Schedule.”, the following shall be substituted, namely:—
 - “a compulsory deposit,—

- (i) for the assessment year commencing on the 1st day of April, 1975 and the assessment year commencing on the 1st day of April, 1976, at the rates specified in Paragraph A of the Schedule; and
- (ii) for the assessment year commencing on the 1st day of April, 1977, at the rates specified in Paragraph B of the Schedule.”;
- (c) in the Schedule,—
- (i) below the words “RATES OF COMPULSORY DEPOSIT” the word and letter “Paragraph A” shall be inserted; and
- (ii) for the provisos, the following shall be substituted, namely:—

“Paragraph B

(1) Where the current income exceeds Rs. 15,000 but does not exceed Rs. 25,000	4 per cent of the current income;	(2) where the total income exceeds Rs. 8,000 but does not exceed Rs. 15,000	Rs. 8,000 plus 17 per cent of the amount by which the total income exceeds Rs. 8,000;
(2) Where the current income exceeds Rs. 25,000 but does not exceed Rs. 70,000	Rs. 1,000 plus 10 per cent of the amount by which the current income exceeds Rs. 25,000;	(3) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000	Rs. 1,190 plus 20 per cent of the amount by which the total income exceeds Rs. 15,000;
(3) Where the current income exceeds Rs. 70,000	Rs. 5,500 plus 12 per cent of the amount by which the current income exceeds Rs. 70,000:	(4) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000	Rs. 2,190 plus 30 per cent of the amount by which the total income exceeds Rs. 20,000;
		(5) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000	Rs. 3,690 plus 40 per cent of the amount by which the total income exceeds Rs. 25,000;
		(6) Where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000	Rs. 5,690 plus 50 per cent of the amount by which the total income exceeds Rs. 30,000;
		(7) where the total income exceeds Rs. 50,000 but does not exceed Rs. 70,000	Rs. 15,690 plus 60 per cent of the amount by which the total income exceeds Rs. 50,000;
		(8) where the total income exceeds Rs. 70,000	Rs. 27,690 plus 70 per cent of the amount by which the total income exceeds Rs. 70,000.

Provided that in a case (whether falling under Paragraph A or Paragraph B)—

- (a) where the current income exceeds Rs. 15,000 but does not exceed Rs. 15,620, the compulsory deposit shall in no case exceed the amount by which the current income exceeds Rs. 15,000;
- (b) where the amount of compulsory deposit calculated in accordance with the foregoing provisions is less than Rs. 100, it shall not be necessary for the depositor concerned to make such deposit.”.

THE FIRST SCHEDULE

(See section 2)

PART I

INCOME-TAX AND SURCHARGE ON INCOME-TAX

Paragraph A

Sub-Paragraph I

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which sub-paragraph II of this Paragraph or any other paragraph of this Part applies,—

Rates of income-tax

- (1) where the total income does Nil; not exceed Rs. 8,000

(2) where the total income exceeds Rs. 8,000 but does not exceed Rs. 15,000	20 per cent of the amount by which the total income exceeds Rs. 8,000;
(3) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000	Rs. 1,190 plus 20 per cent of the amount by which the total income exceeds Rs. 15,000;
(4) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000	Rs. 2,190 plus 30 per cent of the amount by which the total income exceeds Rs. 20,000;
(5) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000	Rs. 3,690 plus 40 per cent of the amount by which the total income exceeds Rs. 25,000;
(6) Where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000	Rs. 5,690 plus 50 per cent of the amount by which the total income exceeds Rs. 30,000;
(7) where the total income exceeds Rs. 50,000 but does not exceed Rs. 70,000	Rs. 15,690 plus 60 per cent of the amount by which the total income exceeds Rs. 50,000;
(8) where the total income exceeds Rs. 70,000	Rs. 27,690 plus 70 per cent of the amount by which the total income exceeds Rs. 70,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax.

Sub-Paragraph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1976 exceeds Rs. 8,000,—

(1) where the total income does Nil; not exceed Rs. 8,000	20 per cent of the amount by which the total income exceeds Rs. 8,000;
(2) where the total income exceeds Rs. 8,000 but does not exceed Rs. 15,000	Rs. 14,000 plus 30 per cent of the amount by which the total income exceeds Rs. 8,000;
(3) where the total income exceeds Rs. 15,002 but does not exceed Rs. 20,000	Rs. 14,000 plus 30 per cent of the amount by which the total income exceeds Rs. 15,000;

(4) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000	Rs. 2,900 plus 40 per cent of the amount by which the total income exceeds Rs. 20,000;	(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000	5 per cent of the amount by which the total income exceeds Rs. 10,000;
(5) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000	Rs. 4,900 plus 50 per cent of the amount by which the total income exceeds Rs. 25,000;	(3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000	Rs. 750 plus 7 per cent of the amount by which the total income exceeds Rs. 25,000;
(6) where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000	Rs. 7,400 plus 60 per cent of the amount by which the total income exceeds Rs. 30,000;	(4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000	Rs. 2,500 plus 15 per cent of the amount by which the total income exceeds Rs. 50,000;
(7) where the total income exceeds Rs. 50,000	Rs. 19,400 plus 70 per cent of the amount by which the total income exceeds Rs. 50,000.	(5) where the total income exceeds Rs. 1,00,000	Rs. 10,000 plus 24 per cent of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	15 per cent of the total income;
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000	Rs. 1,500 plus 25 per cent of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 20,000	Rs. 4,000 plus 40 per cent of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax.

*Paragraph C**Sub-Paragraph I*

In the case of every registered firm, not being a case to which Sub-Paragraph II of its Paragraph applies,—

Rates of income-tax

(1) where the total income does Nil; not exceed Rs. 10,000	
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(1) where the total income does Nil; not exceed Rs. 10,000		(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000	5 per cent of the amount by which the total income exceeds Rs. 10,000;
(2) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000	Rs. 750 plus 7 per cent of the amount by which the total income exceeds Rs. 25,000;	(3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000	Rs. 750 plus 7 per cent of the amount by which the total income exceeds Rs. 25,000;
(3) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000	Rs. 2,500 plus 15 per cent of the amount by which the total income exceeds Rs. 50,000;	(4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000	Rs. 2,500 plus 15 per cent of the amount by which the total income exceeds Rs. 50,000;
(4) where the total income exceeds Rs. 1,00,000	Rs. 10,000 plus 24 per cent of the amount by which the total income exceeds Rs. 1,00,000.	(5) where the total income exceeds Rs. 1,00,000	Rs. 10,000 plus 24 per cent of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax.

Explanation.—For the purposes of this Paragraph, “registered firm” includes an unregistered firm assessed as a registered firm under clause (b) of section 183 of the Income-tax Act.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total 50 per cent.
income.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax.

Paragraph E

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956),—

Rates of Income-tax

- (i) on that part of its 52.5 per cent; total income which consists of profits and gains from life insurance business
- (ii) on the balance, if the rate of income-tax applicable to any of the total income cable in accordance with Paragraph F of this Part, to the total income of a domestic company which is a company in which the public are substantially interested.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge calculated at the rate of five per cent of such income-tax.

Paragraph F

In the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (13 of 1956),—

Rates of income-tax

I. In the case of a domestic company,—

(1) where the company is a company in which the public are substantially interested,—

- (i) in a case where 45 per cent of the total income; the total income dose not exceed Rs. 1,00,000
- (ii) in a case where the 55 per cent of the total total income ex- income; ceeds Rs. 1,00,000

(2) where the company is not a company in which the public are substantially interested,—

(i) in the case of an industrial company,—

(a) where the total income does not exceed 55 per cent of the total income; Rs. 2,00,000

(b) where the total income exceeds 60 per cent of the total income; Rs. 2,00,000

(ii) in any other case 65 per cent of the total income:

Provided that—

(i) the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs. 1,00,000, shall not exceed the aggregate of—

(a) the income-tax which would have been payable by the company if its total income had been Rs. 1,00,000 (the income of Rs. 1,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company); and

(b) eighty per cent of the amount by which its total income exceeds Rs. 1,00,000;

(ii) the income tax payable by a domestic company, not being a company in which the public are substantially interested, which is an industrial company and the total income of which exceeds Rs. 2,00,000, shall not exceed the aggregate of—

(a) the income-tax which would have been payable by the company if its total income had been Rs. 2,00,000 the income of Rs. 2,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company); and

(b) eighty per cent of the amount by which its total income exceeds Rs. 2,00,000.

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of—

(a) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, or

(b) fees for rendering technical services received from an Indian concern

in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964,

and where such agreement has, in either case, been approved by the Central Government

(ii) on the balance, if any, of the total income

Surcharge on income-tax

The amount of income-tax computed in accordance

with the preceding provisions of this Paragraph shall be increased by a surcharge calculated at the rate of five per cent of such income-tax.

PART II

Rates for deduction of tax at source in certain cases

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to deduction at the following rates:—

	Income-tax	
	Rate of income-tax	Rate of surcharge
1. In the case of a person other than a company— (a) where the person is resident in India— (i) on income by way of interest other than "Interest on securities" (ii) on income by way of winnings from lotteries and cross-word puzzles (iii) on income by way of insurance commission (iv) on any other income (excluding interest payable on a tax-free security)	10 per cent 30 per cent 10 per cent 21 per cent	Nil; 3 per cent; Nil; 2 per cent;
(b) where the person is not resident in India— (i) on the whole income (excluding interest payable on a tax-free security)	income tax at 30 per cent and surcharge at 3 per cent of the amount of the income, or	
	income-tax and surcharge on income-tax in respect of the income at the rates prescribed in Sub-Paragraph I of Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher;	
	15 per cent	1.5 per cent;
2. In the case of a company— (a) where the company is a domestic company— (i) on income by way of interest other than "Interest on securities" (ii) on any other income (excluding interest payable on a tax-free security)	20 per cent 22 per cent	1 per cent; 1 per cent;
(b) where the company is not a domestic company— (i) on income by way of dividends payable by any domestic company (ii) on income by way of royalties payable by an Indian concern in pursuance of an agreement made by it with the Indian concern and which has been approved by the Central Government,— (A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976 (B) where the agreement is made after the 31st day of March, 1976— (1) on so much of the amount of such income as consists of lump sum consideration for the transfer outside India of, or the imparting of information outside India in respect of, any data, documentation, drawing or specification relating to any patent invention, model, design, secret formula or process, or trademark or similar property (2) on the balance, if any, of such income	25 per cent	Nil;
	50 per cent	2.5 per cent;
	20 per cent	Nil;
	40 per cent	Nil;
(iii) on income by way of fees for technical services payable by an Indian concern in pursuance of an agreement made by it with the Indian concern and which has been approved by the Central Government— (A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976 (B) where the agreement is made after the 31st day of March, 1976 (iv) on income by way of interest payable on a tax-free security (v) on any other income	50 per cent 40 per cent 44 per cent 70 per cent	2.5 per cent; Nil; 2.2 per cent; 3.5 per cent.

PART III

Rates for calculating or charging income-tax in certain cases, deducting income-tax from income chargeable under the head "Salaries" or any payment referred to in sub-section (9) of section 80E and computing "advance tax".

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income tax or, as the case may be, "advance tax" (not being "advance tax" in respect of any income chargeable to tax under Chapter XII or section 164 of the Income-tax Act at the rates as specified in that Chapter or section), shall be so calculated, charged, deducted or computed at the following rate or rates:—

*Paragraph A**Sub-Paragraph I*

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 8,000 | Nil; |
| (2) where the total income exceeds Rs. 8,000 but does not exceed Rs. 15,000 | 15 per cent of the amount by which the total income exceeds Rs. 8,000; |
| (3) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000 | Rs. 1,050 plus 18 per cent of the amount by which the total income exceeds Rs. 15,000; |
| (4) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000 | Rs. 1,950 plus 25 per cent of the amount by which the total income exceeds Rs. 20,000; |
| (5) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000 | Rs. 3,200 plus 30 per cent of the amount by which the total income exceeds Rs. 25,000; |
| (6) where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000 | Rs. 4,700 plus 40 per cent of the amount by which the total income exceeds Rs. 30,000; |
| (7) where the total income exceeds Rs. 50,000 but does not exceed Rs. 70,000 | Rs. 12,700 plus 50 per cent of the amount by which the total income exceeds Rs. 50,000; |
| (8) where the total income exceeds Rs. 70,000 but does not exceed Rs. 1,00,000 | Rs. 22,700 plus 55 per cent of the amount by which the total income exceeds Rs. 70,000; |
| (9) where the total income exceeds Rs. 1,00,000 | Rs. 39,200 plus 60 per cent of the amount by which the total income exceeds Rs. 1,00,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax.

Sub-Paragraph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1977 exceeds Rs. 8,000,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 8,000 | Nil; |
| (2) where the total income exceeds Rs. 8,000 but does not exceed Rs. 15,000 | 18 per cent of the amount by which the total income exceeds Rs. 8,000; |
| (3) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000 | Rs. 1,260 plus 25 per cent of the amount by which the total income exceeds Rs. 15,000; |
| (4) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000 | Rs. 2,510 plus 30 per cent of the amount by which the total income exceeds Rs. 20,000; |
| (5) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000 | Rs. 4,010 plus 40 per cent of the amount by which the total income exceeds Rs. 25,000; |
| (6) where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000 | Rs. 6,010 plus 50 per cent of the amount by which the total income exceeds Rs. 30,000; |
| (7) where the total income exceeds Rs. 50,000 but does not exceed Rs. 70,000 | Rs. 16,010 plus 55 per cent of the amount by which the total income exceeds Rs. 50,000; |
| (8) where the total income exceeds Rs. 70,000 | Rs. 27,010 plus 60 per cent of the amount by which the total income exceeds Rs. 70,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 10,000 | 15 per cent of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,500 plus 25 per cent of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 4,000 plus 40 per cent of the amount by which the total income exceeds Rs. 20,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax.

*Paragraph C**Sub-Paragraph I*

In the case of every registered firm, not being a case to which Sub-Paragraph II of this Paragraph applies,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 10,000 | <i>Nil</i> ; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000 | 5 per cent of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000 | Rs. 750 plus 7 per cent of the amount by which the total income exceeds Rs. 25,000; |
| (4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000 | Rs. 2,500 plus 15 per cent of the amount by which the total income exceeds Rs. 50,000; |
| (5) where the total income exceeds Rs. 1,00,000 | Rs. 10,000 plus 24 per cent of the amount by which the total income exceeds Rs. 1,00,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax.

Sub-Paragraph II

In the case of every registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent of such total income,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 10,000 | <i>Nil</i> ; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000 | 4 per cent of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000 | Rs. 600 plus 7 per cent of the amount by which the total income exceeds Rs. 25,000; |
| (4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000 | Rs. 2,350 plus 13 per cent of the amount by which the total income exceeds Rs. 50,000; |
| (5) where the total income exceeds Rs. 1,00,000 | Rs. 8,850 plus 22 per cent of the amount by which the total income exceeds Rs. 1,00,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax.

Explanation.—For the purposes of this Paragraph, “registered firm” includes an unregistered firm assessed as a registered firm under clause (b) of section 183 of the Income-tax Act.

Paragraph D

In the case of every local authority,—

Rates of income-tax

- | | |
|----------------------------------|--------------|
| On the whole of the total income | 50 per cent. |
|----------------------------------|--------------|

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax.

Paragraph E

In the case of a company,—

*Rates of income-tax***I. In the case of a domestic company,—**

(1) where the company is a company in which the public are substantially interested,—

(i) in a case where the total income does not exceed Rs. 1,00,000

45 per cent of the total income;

(ii) in a case where the total income exceeds Rs. 1,00,000

55 per cent of the total income;

(2) where the company is not a company in which the public are substantially interested,—

(i) in the case of an industrial company,—

(a) where the total income does not exceed Rs. 2,00,000

55 per cent of the total income;

(b) where the total income exceeds Rs. 2,00,000

60 per cent of the total income;

(ii) in any other case

65 per cent of the total income:

Provided that—

(i) the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs. 1,00,000 shall not exceed the aggregate of—

(a) the income-tax which would have been payable by the company if its total income had been Rs. 1,00,000 (the income of Rs. 1,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company); and

(ii) eight per cent of the amount by which its total income exceeds Rs. 1,00,000; the income-tax payable by a domestic company, not being a company in which the public are substantially interested, which is an industrial company and the total income of which exceeds Rs. 2,00,000, shall not exceed the aggregate of—

(a) the income-tax which would have been payable by the company if its total income had been Rs. 2,00,000 (the income of Rs. 2,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company); and

(b) eighty per cent of the amount by which its total income exceeds Rs. 2,00,000.

II. In the case of a company other than a domestic company,—

(i) on so much of the total income as consists of—

(a) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976, and where such agreement has, in either case, been approved by the Central Government

50 per cent;

(ii) on the balance, if any, of the total income

70 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge calculated at the rate of five per cent of such income-tax.

PART IV

[See section 2 (9) (e)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (a) of clause (1) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-section (3) and (4) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1) of section 2 of the Income-tax Act [other than income derived from any building required as dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession"

and the provisions of sections 30, 31, 32, 34, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43 and 43A of the Income tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (c) of clause (1) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (2) of the said section 23 shall apply subject to the modifications that the references to "total income" therein shall be construed as references to net agricultural income and that the words, figures and letter "and before making any deduction under Chapter VIA" shall be omitted.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a partner of a registered firm or an unregistered firm assessed as a registered firm under clause (b) of section 183 of the Income-tax Act, which in the previous year has any agricultural income, or is a partner of an unregistered firm which has not been assessed as a registered firm under clause (b) of the said section 183 and which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an unregistered firm but has any agricultural income, then, the agricultural income or loss of the firm shall be computed in accordance with these rules and his share in the agricultural income or loss of the firm shall be computed in the manner laid down in sub-section (1), sub-section (2) and sub-section (3) of section 67 of the Income-tax Act and the share so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company of a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income, then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 7.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a partner of an unregistered firm which has not been assessed as a registered firm under clause (b) of section 183 of the Income-tax Act or is a member of an association of persons or body of individuals and the share of the assessee in the agricultural income of the firm, association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 8.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 9.—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1976, any agricultural income and the net result of the computation of the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1974 or the 1st day of April, 1975, or both, is a loss then, for the purposes of sub-section (2) of section 2 of this Act,—

- (i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1974, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1975, and
- (ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1975,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1976.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1977 or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than that previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1974 or the 1st day of April, 1975 or the 1st day of April, 1976, is a loss, then, for the purposes of sub-section (7) of section 2 of this Act,—

- (i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1974, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1975 or the 1st day of April, 1976,
- (ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1975, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1976, and
- (iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1976,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1977 or the period aforesaid.

(3) Where a change has occurred in the constitution of a firm, nothing in sub-rule(1) or sub-rule(2) shall entitle the firm to set off so much of the loss proportionate to the share of a retired or deceased partner computed in the manner laid down in sub-section (1), sub-section (2) and sub-section (3) of section 67 of the Income-tax Act as exceeds his share of profits, if any, of the previous year in the firm, or entitle any partner to the benefit of any portion of the said loss (computed in the manner aforesaid) which is not apportionable to him.

(4) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2).

(5) Notwithstanding anything contained in this rule, no loss which has not been determined by the Income-tax Officer under the provisions of these rules, or the rules contained in Part IV of the First Schedule to the Finance Act, 1974, (20 of 1974) or of First Schedule to the Finance Act, 1975 (25 of 1975) shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

Rule 10.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

Rule 11.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 12.—For the purposes of computing the net agricultural income of the assessee, the Income-tax Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

THE SECOND SCHEDULE

(See section 31)

PART I

In the First Schedule to the Tariff Act,—

- (i) in Item No. 47 (2), for the entry in the fourth column, the entry “100 per cent *ad valorem plus* Rs. 20.00 per kilogram.” shall be substituted;
- (ii) in Item No. 63 (20A), for the figures “200” in the fourth column, the figures “300” shall be substituted;
- (iii) in Item No. 64, for the figures “60” and “50” in the fourth and fifth columns, the figures “100” and “90” shall, respectively, be substituted;
- (iv) in item Nos. 64(1) and 64(2), for the figures “40” in the fourth column against each of them, the figures “100” shall be substituted;
- (v) in Item Nos. 64(3) and 64(5), for the figures “50” and “60” in the fourth column against each of them, the figures “90” and “100” shall, respectively, be substituted;
- (vi) in Item No. 64(4), for the figures “40”, “30” and “30” in the fourth, fifth, and sixth columns, the figures “100”, “90” and “90” shall, respectively, be substituted.

PART II

Item No.	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British colony	
1	2	3	4	5	6	7

In the First Schedule to the Tariff Act —

- (i) after item No. 28B, the following Item shall be inserted, namely:—
‘28C Caprolactam and Preferential 150 per cent 140 per cent 140 per cent ..;
Dimethylterephtha- Revenue. *ad valorem.* *ad valorem.* *ad valorem.*
- (ii) for Item No. 63(30), the following Item shall be substituted, namely:—
‘63(30) Alloy steel and high Revenue 60 per cent
carbon steel pro- ducts, the follow- ing, namely, in- gots, blooms, billets, slabs, bars, flats, rods, coils, angles, shapes, sections, sheets, plates, hoops, strips and wire, but ex- cluding articles specified in Item Nos. 63 (14A) and 63 (20A).

Explanation I.—This Item is to be taken to apply to the goods mentioned therein even though they may be covered by any other Item in this Schedule.

Explanation II.—For the purposes of this Item, the expressions "alloy steel" and "high carbon steel" have the meanings respectively assigned to them in Note 1(d) and 1(e) of Chapter 73 of the First Schedule to the Customs Tariff Act, 1975. (S.I. of 1975).

THE THIRD SCHEDULE

[See section 34]

PART I

In the First Schedule to the Customs Tariff Act,—

- (i) in Heading No. 51.01/03, for the entry in column (3), the entry "100% plus Rs. 20 per kilogram" shall be substituted;
- (ii) in Heading No. 56.05/06, for the entry in column (3), the entry "100% plus Rs. 20 per kilogram" shall be substituted;
- (iii) in Heading No. 74.01/02, for the entry in column (3), the entry "100%" shall be substituted;
- (iv) in Heading No. 74.03,—
 - (1) in sub-heading No. (1), for the entry in column (3), the entry "100%" shall be substituted;
 - (2) in sub-heading No. (2), for the entries in columns (3) and (4), the entries "100%" and "90%" shall, respectively, be substituted;
- (v) in Headings Nos. 74.04/05 and 74.06, for the entry in column (3) against each of them, the entry "100%" shall be substituted;
- (vi) in Heading No. 74.07/08, in sub-heading No. (1), for the entry in column (3), the entry "100%" shall be substituted;
- (vii) in Heading No. 74.09/19, for the entry in column (3), the entry "100%" shall be substituted.

PART II

Heading No.	Sub-heading No. and description of article	Rate of duty			Duration when rates of duty are protective
		Standard	U.K.	Other Preferential Areas	
1	2	3	4	5	6

In the First Schedule to the Customs Tariff Act,—

- (i) in Heading No. 29.01/45, after sub-heading No. (19), the following sub-heading shall be inserted, namely,—

"(20) Caprolactam and Dimethyl terephthalate 150% 140% 140% [REDACTED];

- (ii) for Heading No. 73.15, the following Heading shall be substituted, namely:—

"73.15 Alloy steel and high carbon steel in the forms mentioned in Headings Nos. 73.06/07 to 73.14 :

- | | | | | |
|---|------|----|----|----|
| (1) Not elsewhere specified. | 60% | .. | .. | .. |
| (2) Coils for rerolling, strips, sheets and plates, of stainless steel. | 300% | .. | .. | .. |

PART III

In the Second Schedule to the Customs Tariff Act, in Heading No. 1, for the entry in column (3), the entry "Rs. 300 per quintal" shall be substituted.

PART IV

Heading No.	Description of article	Rate of duty
1	2	3

In the Second Schedule to the Customs Tariff Act, the following Heading shall be inserted at the end, namely:—

“20. Groundnut—

- (i) Groundnut kernel .. Rs. 800 per tonne.
- (ii) Groundnut in shell .. Rs. 600 per tonne.”.

THE FOURTH SCHEDULE

[See section 35]

PART I

In the First Schedule to the Central Excises Act,—

- (i) in Item No. 4, under “II. Manufactured tobacco—”, for the entry in the third column against sub-item (1), the entry “One hundred and fifty-five per cent. *ad valorem*.” shall be substituted;
- (ii) in Item No. 6, for the entry in the third column, the entry “Two thousand two hundred rupees per kilolitre at fifteen degrees of Centigrade thermometer” shall be substituted;
- (iii) in Item No. 8, for the entry in the third column against sub-item (a), the entry “One thousand rupees per kilolitre at fifteen degrees of Centigrade thermometer.” shall be substituted;
- (iv) in Item No. 10, for the entry in the third column, the entry “One hundred and fifty rupees, per kilolitre at fifteen degrees of Centigrade thermometer.” shall be substituted;
- (v) in Item No. 11, for the entry in the third column against sub-item (1), the entry “Two hundred rupees per metric tonne” shall be substituted;
- (vi) in Item No. 11A, for the entries in the third column against sub-items (3) and (4), the entries “Twenty per cent *ad valorem plus* six hundred rupees per metric tonne.” and “Twenty per cent. *ad valorem plus* two thousand rupees per metric tonne.” shall, respectively, be substituted;
- (vii) in Item No. 11 B, for the entry in the third column, the entry “Twenty per cent. *ad valorem plus* two thousand rupees per metric tonne.” shall be substituted;
- (viii) in Item No. 14E, for the entry in the third column, the entry “Twelve and a half per cent *ad valorem*.” shall be substituted;
- (ix) in Item No. 18, after *Explanation III*, the following *Explanation* shall be inserted, namely:—

“Explanation IV.—This item does not include mineral fibres and yarn.”;

- (x) in Item No. 19, in the second column, for the words “impregnated or coated”, wherever they occur, the words “impregnated, coated or laminated” shall be substituted;

(xi) in Item No. 22,—

- (a) in the second column, for the words “impregnated or coated”, wherever they occur, the words “impregnated, or coated” wherever they occur, the words “impregnated, coated or laminated” shall be substituted;

- (b) the *Explanation* shall be numbered as “*Explanation I.*” and after the *Explanation* as so numbered, the following *Explanation* shall be inserted, namely:—

“Explanation II.—This item does not include glass fabrics.”;

- (xii) in Item No. 22B, in the second column, for the words “IMPREGNATED OR COATED”, THE WORDS “IMPREGNATED, COATED OR LAMINATED” shall be substituted;

- (xiii) in Item No. 22C, in the second column, for the words “IMPREGNATION OR COATING”, the words “IMPREGNATION, COATING OR LAMINATION” shall be substituted;

(xiv) in Item No. 33A,—

- (a) for the entries in the third column against sub-items (2) and (3), the entries “Four hundred rupees per set.” and “Four hundred rupees per set.” shall, respectively, be substituted;

- (b) for the entry in the second column against sub-item (3), the entry “Rediograms (including radio or transistor sets with extra space in cabinet for fitting in record players or record changers) and combination sets of radios (including transistor sets) and tape recorders (including cassette recorders and tape decks)” shall be substituted;

(xv) in Item No. 33D, in the second column,—

- (a) the words and brackets "COMPUTERS (INCLUDING CENTRAL PROCESSING UNITS AND PERIPHERAL DEVICES)" shall be omitted;
- (b) after the words "OR UNASSEMBLED CONDITION", the words ", NOT ELSEWHERE SPECIFIED" shall be inserted;

(xvi) in Item No. 35, in the second column, for the words "CYCLES, PARTS OF CYCLES", the words "PARTS OF CYCLES" shall be substituted;

(xvii) Item No. 45 shall be omitted.

PART II

Item No.	Description of goods 2	Rate of duty 3
In the First Schedule to the Central Excises Act,—		
(i) for Item No. 1 D, the following Item shall be substituted, namely:—		
"1 D AERATED WATERS, WHETHER OR NOT FLAVOURED OR SWEETENED AND WHETHER OR NOT CONTAINING VEGETABLE OR FRUIT JUICE OR FRUIT PULP—		
(1) Aerated waters, in the manufacture of which blended flavouring concentrates in any form are used—		
(a) For each unit container containing 200 millilitres or less.	Twenty-five paise.	
(b) For each unit container containing more than 200 millilitres.	Twenty-five paise plus ten paise for every hundred millilitres or fraction thereof in excess of 200 millilitres.	
(c) All others.	Fifty-five per cent. <i>ad valorem</i> .	
(2) All others.	Twenty per cent <i>ad valorem</i> .";	
(ii) after Item No. 15B, the following Item shall be inserted, namely:—		
"15C STARCH (INCLUDING DEXTRIN AND OTHER FORMS OF MODIFIED STARCH), ALL SORTS, IN OR IN RELATION TO THE MANUFACTURE OF WHICH ANY PROCESS IS ORDINARILY CARRIED ON WITH THE AID OF POWER.	Ten per cent <i>ad valorem</i> .";	
(iii) for Item No. 17, the following Item shall be substituted, namely:—		
"17 PAPER AND PAPER BOARD, ALL SORTS (including pasteboard, milboard, strawboard, cardboard and corrugated board), in or in relation to the manufacture of which any process is ordinarily carried on with the aid of power—		
(1) Uncoated and coated printing and writing paper (other than poster paper).	Twenty-five per cent <i>ad valorem</i> .	
(2) Paper board and all other kinds of paper (including paper or paper boards which have been subjected to various treatments such as coating, impregnating, corrugation, creping and design printing), not elsewhere specified.	Thirty per cent <i>ad valorem</i> .";	
(iv) in Item No. 19, for sub-item (2), the following sub-item shall be substituted, namely:—		
“(2) Others— (a) Cotton fabrics, superfine—that is to say, fabrics in which the average count of yarn is 61s or more.	Fifteen per cent <i>ad valorem</i> .	

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3

- (b) Cotton fabrics, fine—that is to say, fabrics in which the average count of yarn is 41s or more but is less than 61s. Fifteen per cent *ad valorem*.
- (c) Cotton fabrics, medium A—that is to say, fabrics in which the average count of yarn is 26s or more but is less than 41s. Three per cent *ad valorem*.
- (d) Cotton fabrics, medium B—that is to say, fabrics in which the average count of yarn is 17s or more but is less than 26s. Three per cent *ad valorem*.
- (e) Cotton fabrics, coarse—that is to say, fabrics in which the average count of yarn is less than 17s. Three per cent *ad valorem*.
- (f) Cotton fabrics not otherwise specified. Fifteen per cent *ad valorem*.
- (v) after Item No. 22E, the following Item shall be inserted, namely:—

“22F MINERAL FIBRES AND YARN, AND MANUFACTURES THEREFROM, IN OR IN RELATION TO THE MANUFACTURE OF WHICH ANY PROCESS IS ORDINARILY CARRIED ON WITH THE AID OF POWER. Fifteen per cent *ad valorem*.

Explanation.—“Mineral fibres and yarn, and manufactures therefrom” shall be deemed to include—

- (i) glass fibre and yarn including glass tissues and glass wool;
- (ii) asbestos fibre and yarn;
- (iii) any other mineral fibre or yarn, whether continuous or otherwise such as slag-wool and rock wool; and
- (iv) manufactures containing mineral fibres and yarn, other than asbestos cement products.

(vi) for Item No. 23, the following Item shall be substituted, namely:—

“23 CEMENT ALL VARIETIES—

(1) Grey portland cement (including ordinary portland cement, pozzolana cement and blast furnace slag cement), masonry cement, rapid hardening cement, low heat cement and waterproof (hydrophobic) cement. Rupees one hundred per metric tonne.

(2) All others. Thirty-five per cent *ad valorem*. ”;

(vii) after Item No. 33D, the following Item shall be inserted, namely:—

“33DD COMPUTERS (INCLUDING CENTRAL PROCESSING UNITS AND PERIPHERAL DEVICES), ALL SORTS. Fifteen per cent *ad valorem*. ”.

THE FIFTH SCHEDULE

[See section 37]

In the First Schedule to the Additional Duties of Excise Act,—

(i) in Item No. 4, under “II. Manufactured tobacco—”, for sub-item (1), the following sub-item shall be substituted, namely:—

“(1) Cigars and cheroots. Fifty per cent *ad valorem*. ”;

(ii) in Item No. 19,—

- (a) in the second column, for the words “impregnated or coated”, wherever they occur, the words “impregnated, coated or laminated” shall be substituted;
- (b) for the entries in the third column, against sub-items I(2) (a), I(2)(b), I(2)(c), I(2)(d), I(2)(e) and I(2)(f) the entries “Two and a half per cent *ad valorem*. ”, “Two and a half per cent *ad valorem*. ”, “Two per cent *ad valorem*. ”, “One per cent *ad valorem*. ”, “One-half per cent *ad valorem*. ”, and “Two and a half per cent *ad valorem*. ” shall, respectively, be substituted;
- (iii) in Item No. 22, in the second column, for the words “impregnated or coated”, wherever they occur, the words “impregnated, coated or laminated” shall be substituted.

THE SIXTH SCHEDULE

[See section 39(c)]

In the Schedule to the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (16 of 1955) for the headings and the items and entries relating thereto, occurring before the *Explanations*, the following shall be substituted, namely:—

Item No.	Description of dutiable goods	Rate of duty
<i>Medicinal preparations</i>		
1. Allopathic Medicinal Preparations:—		
(i)	Medicinal preparations containing alcohol which are not capable of being consumed as ordinary alcoholic beverages—	
(a)	Patent or proprietary medicines.	Twenty per cent. <i>ad valorem</i> or rupees three and seventy-five paise per litre of the strength of London proof spirit, whichever is higher.
(b)	Others.	Rupees three and seventy-five paise per litre of the strength of London proof spirit.
(ii)	Medicinal preparations containing alcohol which are capable of being consumed as ordinary alcoholic beverages—	
(a)	Medicinal preparations which contain known active ingredients in therapeutic quantities.	Twenty per cent <i>ad valorem</i> or Rs. seven and fifty paise per litre of the strength of London proof spirit, whichever is higher.
(b)	Others.	Rupees thirty per litre of the strength of London proof spirit.
(iii)	Medicinal preparations not containing alcohol but containing narcotic drug or narcotic.	Twenty per cent. <i>ad valorem</i> .
2.	Medicinal preparations in Ayurvedic, Unani or other indigenous systems of medicine—	
(i)	Medicinal preparations containing self-generated alcohol which are not capable of being consumed as ordinary alcoholic beverages.	<i>Nil.</i>
(ii)	Medicinal preparations containing self-generated alcohol which are capable of being consumed as ordinary alcoholic beverages.	Rupee one per litre of the strength of London proof spirit.
(iii)	All others containing alcohol which are prepared by distillation or to which alcohol has been added.	Rupees thirty per litre of the strength of London proof spirit.
(iv)	Medicinal preparations not containing alcohol but containing narcotic drug or narcotic.	Twenty per cent. <i>ad valorem</i> .
3.	Homoeopathic preparations containing alcohol.	Rupees seven and fifty paise per litre of the strength of London proof spirit.
<i>Toilet preparations</i>		
4.	Toilet preparations containing alcohol or narcotic drug or narcotic.	Sixty per cent <i>ad valorem</i> or rupees seven and fifty paise per litre of the strength of London proof spirit, whichever is higher.”.

Simla-2, the 17th December, 1976

No. LLR. E (9) 12/76.—The following Acts recently passed by Parliament which have already been published in the Gazette of India, Extraordinary, part II, section 1, are hereby republished in the Himachal Pradesh Government Rajpatra for the information of general public:—

1. The Maintenance of Internal Security (Second Amendment) Act, 1976 (78 of 1976).
2. The Antiquities and Art Treasures (Amendment) Act, 1976 (82 of 1976).
3. The Government of Union Territories (Amendment) Act, 1976 (86 of 1976).
4. The Delhi Agricultural Produce Marketing (Regulation) Act, 1976 (87 of 1976).
5. The Labour Provident Fund Laws (Amendment) Act, 1976 (99 of 1976).
6. The Metal Corporation (Nationalisation and Miscellaneous Provisions) Act, 1976 (100 of 1976).
7. The Fifth Schedule to the Constitution (Amendment) Act, 1976 (101 of 1976).
8. The Kerala Legislative Assembly (Extension of Duration) Second Amendment Act, 1976 (102 of 1976).
9. The Central Sales Tax (Amendment) Act, 1976 (103 of 1976).

M. C. PADAM,
Under Secretary (Judicial).

Assented to on 25-8-1976

THE MAINTENANCE OF INTERNAL SECURITY (SECOND AMENDMENT) ACT, 1976

(ACT NO. 78 OF 1976)

AN
ACT

further to amend the Maintenance of Internal Security Act, 1971.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Maintenance of Internal Security (Second Amendment) Act, 1976.

(2) It shall be deemed to have come into force on the 16th day of June, 1976.

2. *Amendment of Act 26 of 1971.*—In section 16A of the Maintenance of Internal Security Act, 1971, (hereinafter referred to as the principal Act), in sub-section (1), for the words “twelve months”, the words “twenty-four months” shall be substituted.

3. *Removal of doubts.*—For the removal of doubts, it is hereby declared that every declaration made under section 16A of the principal Act before the commencement of this Act and in force immediately before such commencement shall have effect as if the amendment made in that section by this Act had been in force on and from the 29th day of June, 1975.

4. *Repeal and saving.*—(1) The Maintenance of Internal Security (Amendment) Ordinance, 1976 (5 of 1976) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

(Assented to on 28-8-1976

THE ANTIQUITIES AND ART TREASURES (AMENDMENT) ACT, 1976

(ACT NO. 82 OF 1976)

AN
ACT

to amend the Antiquities and Art Treasures Act, 1972.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Antiquities and Art Treasures (Amendment) Act, 1976.

(2) It shall be deemed to have come into force on the 4th June, 1976.

2. *Amendment of section 5.*—In section 5 of the Antiquities and Art Treasures Act, 1972 (52 of 1972), (hereinafter referred to as the principal Act), for the words “On and from the expiry of a period of two months of the commencement of this Act”, the words “As from the date of expiry of a period of six months from the commencement of this Act” shall be substituted.

3. *Amendment of section 16.*—In section 16 of the principal Act, in sub-section (2), for the words “shall be accompanied”, the words “shall, in the case of such antiquities or class of antiquities as the Central Government may, by notification in the Official Gazette, specify, be accompanied” shall be substituted.

4. *Amendment of section 18.*—In section 18 of the principal Act, after the words “owned, controlled or managed by the Government”, the words “or by any local authority or by any such body as the Central Government may, for reasons to be recorded in writing, approve for the purpose of this section by general or special order” shall be inserted.

5. *Repeal and saving.*—(1) The Antiquities and Art Treasures (Amendment) Ordinance, 1976 (4 of 1976), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

(Assented to on 31-8-1976.

THE GOVERNMENT OF UNION TERRITORIES (AMENDMENT) ACT, 1976

(ACT NO. 86 OF 1976)
AN
ACT

further to amend the Government of Union Territories Act, 1963.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Government of Union Territories (Amendment) Act, 1976.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 3.—In section 3 of the Government of Union Territories Act, 1963 (20 of 1963) (hereinafter referred to as the principal Act).—

(i) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) Seats shall be reserved for the Scheduled Castes in the Legislative Assemblies of the Union territories of Goa, Daman and Diu and Pondicherry, and for the Scheduled Tribes in the Legislative Assembly of the Union territory of Goa, Daman and Diu.”;

(ii) in sub-section (5), for the words “of the Union territory of Pondicherry”, the words “of any Union territory” shall be substituted;

(iii) in sub-section (6), for the words “in the Legislative Assembly of the Union territory of Pondicherry”, the words “in the Legislative Assemblies of the Union territories of Goa, Daman and Diu and Pondicherry” shall be substituted.

3. Insertion of new section.—After section 43C of the principal Act, the following section shall be inserted, namely:—

43D. Special provision for determination of constituencies in the Legislative Assembly of Goa, Daman and Diu for Scheduled Castes and Scheduled Tribes.—(1) The Election Commission shall determine on the basis of the latest census figures—

(i) the number of seats to be reserved for the Scheduled Castes and for the Scheduled Tribes in the Legislative Assembly of the Union territory of Goa, Daman and Diu (hereafter in this section referred to as the Legislative Assembly) having regard to the provisions of sub-section (5) of section 3; and

(ii) the constituencies in which those seats shall be so reserved having regard to the provisions of clause (c), or, as the case may be, clause (d), of sub-section (1) of section 9 of the Delimitation Act and without altering the extent of any constituency as delimited by the Delimitation Commission.

(2) The Election Commission shall—

(a) publish its proposals for the determination of the constituencies in which seats shall be reserved for the Scheduled Castes or for the Scheduled Tribes, as the case may be, in the Gazette of India and in the Official Gazette of the Union territory of Goa, Daman and Diu and also in such other manner as the Election Commission may consider fit, together with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which the proposals will be further considered by it;

(b) consider all objections and suggestions which may have been received by it before the date so specified;

(c) after consideration of objections and suggestions which may have been received by it before the date so specified, determine by one or more orders the number of seats to be reserved for the Scheduled Castes or for the Scheduled Tribes, as the case may be, in the Legislative Assembly and the constituencies in which those seats shall be so reserved and cause such order or orders to be published in the Gazette of India and in the Official Gazette of the Union territory of Goa, Daman and Diu; and upon such publication in the Gazette of India, the order or orders shall have the full force of law and shall not be called in question in any court and the Second Schedule to the Representation of the People Act, 1950 (43 of 1950) and the order made by the Delimitation Commission under section 9 of the Delimitation Act in relation to the Legislative Assembly shall be deemed to have been amended accordingly.

(3) Subject to the provisions of sub-section (4), the re-adjustment of representation of any territorial constituencies in the Legislative Assembly necessitated by any order made by the Election Commission under this section, shall apply in relation to every election to the Legislative Assembly held after the publication in the Gazette of India, under sub-section (2), of such order.

(4) Nothing contained in the foregoing sub-sections shall affect the representation in the Legislative Assembly existing on the date of publication in the Gazette of India, under sub-section (2), of any order made by the Election Commission.

(5) The Election Commission may, from time to time, by notification in the Gazette of India and in the Official Gazette of the Union territory of Goa, Daman and Diu—

(a) correct any printing mistake in any order made under sub-section (2) or any error arising therein from inadvertent slip or omission;

(b) where the boundaries or name of any territorial division mentioned in any such order are, or is, altered, make such amendments as appear to it to be necessary or expedient for bringing such order up-to-date.

(6) Every order made under sub-section (2) and every notification issued under sub-section (5) shall be laid, as soon as may be, after it is made or issued before the Legislative Assembly.

Explanation.—In this section,—

- (a) “Delimitation Act” means the Delimitation Act, 1972 (76 of 1972);
- (b) “Delimitation Commission” means the Delimitation Commission constituted under section 3 of the Delimitation Act.”.

Assented to on 2-9-1976.

THE DELHI AGRICULTURAL PRODUCE MARKETING (REGULATION) ACT, 1976

(ACT NO. 87 OF 1976)

AN
ACT

to provide for the better regulation of the purchase, sale, storage and processing of agricultural produce and the establishment of markets for agricultural produce in the

Union territory of Delhi and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Delhi Agricultural Produce Marketing (Regulation) Act, 1976.

(2) It extends to the whole of the Union territory of Delhi.

(3) It shall come into force on such date as the Administrator may, by notification, appoint.

2. Definitions.—(1) In this Act, unless the context otherwise requires,—

- (a) "Administrator" means the Administrator of the Union territory of Delhi appointed by the President under article 239 of the Constitution;
- (b) "agricultural produce" means such produce (whether processed or not) of agriculture, horticulture, forest, animal husbandry, apiculture or pisciculture as are specified in Schedule;
- (c) "agriculturist" means a person who ordinarily by his own labour or by the labour of any member of his family or who by the labour of his tenants or by servants or hired labour or otherwise is engaged in the production or growth of agricultural produce which has not been processed, but does not include a trader, commission agent, processor or broker, in or in relation to, agricultural produce except where such trader, commission agent, processor or broker is also engaged in the production or growth of agricultural produce;
- (d) "Board" means the Delhi Agricultural Marketing Board constituted under section 5;
- (e) "broker" means an agent who, in consideration of a commission, fee or remuneration, contrives, makes and concludes a bargain, or contracts on behalf of his principal, for the purchase or sale of agricultural produce, but does not receive, deliver, transport, or pay for the purchase or collect payment for the sale of, the agricultural produce;
- (f) "bye-laws" means by-laws made under section 65;
- (g) "commission agent" means person, who, by himself or through his servants, buys and sells agricultural produce for another person, keeps it in his custody and controls it during the process of its sale or purchase, and collects payment therefor from the buyer and pays it to the seller and receives by way of remuneration a commission or percentage upon the amount involved in each transaction;
- (h) "Director" means a person appointed as the Director of Agricultural Marketing for the Union Territory of Delhi;
- (i) "local authority" means, in relation to an area within the local limits of,—
 - (i) the Municipal Corporation of Delhi, that Corporation;
 - (ii) the New Delhi Municipal Committee, that Committee;
 - (iii) the Delhi Cantonment Board, that Board;
- (j) "market" means any principal market established under this Act and includes a subsidiary market;

- (k) "market area" means an area declared to be a market area under section 4;
- (l) "Market Committee" means a committee constituted for a market area under sections ;
- (m) "notification" means a notification published in the Official Gazette;
- (n) "Official Gazette" means the Delhi Gazette;
- (o) "prescribed" means prescribed by rules made under this Act;
- (p) "processor" means a person who processes any agricultural produce on payment of a charge;
- (q) "retail sale" in relation to any agricultural produce, means the sale of that produce, not exceeding such quantity as the Market Committee may, by bye-laws, determine to be a retail sale;
- (r) "schedule" means the schedule to this Act;
- (s) "secretary" means a secretary of a Market Committee, and includes a Joint, Deputy or Assistant secretary;
- (t) "Surveyor" means a person who, on arrival of a consignment of agricultural produce for sale in any market area or market, surveys it for ascertaining the quality, refraction, adulteration and other like factors;
- (d) "trader" means a person who buys or sells agricultural produce as a principal or as duly authorized agent of one or more persons.

(2) If any question arises as to whether a person is or is not any agriculturist for the purposes of this Act, the matter shall be referred to, the Director who shall decide the same.

3. Notification of intention, of regulating marketing of agricultural produce in specified area.—(1) The Administrator may, by notification, declare his intention of regulating the marketing of such agricultural produce, and in such area, as may be specified in the notification in accordance with the provisions of this Act.

(2) The notification may also be published in any newspaper published in the regional language and circulating in the area specified under sub-section (1), or in such other manner as, in the opinion of the Administrator, is best calculated to bring to the notice of persons in that area, the intention aforesaid.

(3) The notification shall state that any objections or suggestions which may be received by the Administrator, within such period as may be specified in the notification, not being less than one month from the date of publication of the notification in the Official gazette, shall be considered by him.

4. Declaration of regulation of marketing of specified agricultural produce in market area.—(1) On the expiry of the period specified in the notification issued under section 3, and after considering the objections and suggestions, if any, as may be received before such expiry, and holding, wherever considered necessary, an inquiry in the prescribed manner, the Administrator may, by notification, declare an area to be a market area wherein the marketing of agricultural produce specified in the notification shall be regulated in accordance with the provisions of this Act.

(2) A declaration made under this section may also be published in any newspaper published in the regional language and circulating in the area specified under sub-section (1), or in such other manner as, in the opinion of the Administrator, is best calculated to bring to the notice of persons in that area the declaration aforesaid.

(3) On a declaration being made under sub-section (1) no local authority shall, notwithstanding anything contained in any other law for the time being in force, establish, or authorise or allow to be established, or continue, or authorise the continuation of, any place in the market area for the marketing of agricultural produce specified in the declaration.

(4) The Administrator may, in the manner specified in section 3, at any time, exclude any area from a market area, or include therein an additional area, or may declare that the regulation of marketing of any agricultural produce in any market area shall cease or that the marketing of any agricultural produce hitherto not regulated shall be regulated in the market area.

CHAPTER II CONSTITUTION OF DELHI AGRICULTURAL MARKETING BOARD

5. Constitution, powers and duties of Delhi Agricultural Marketing Board.—(1) The Administrator shall, for the purposes of this Act, establish a Board to be known as the Delhi Agricultural Marketing Board consisting of a Chairman, to be nominated by the Administrator, and twelve other members, of whom four shall be officials and eight non-officials, to be nominated by the Administrator in the following manner, namely:—

- (a) the Director and three other officials representing, respectively, the Agriculture Department, the Co-operative Department and the Animal Husbandry Department, of the Delhi Administration shall be the official members;
- (b) the non-official members shall be—
 - (i) two agriculturists, being members of the Market Committees;
 - (ii) one member representing the organisations of farmers;
 - (iii) one progressive agriculturist of Delhi;
 - (iv) one member representing traders and commission agents licensed under section 34;
 - (v) one member representing the co-operative societies; and
 - (vi) two members representing the interests of consumers, of whom one shall be a member of the Metropolitan Council of Delhi.

(2) The Director shall be the *ex-officio* Secretary of the Board.

(3) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with powers, subject to the provisions of this Act, to acquire and hold property, and to contract, and shall, by the said name, sue and be sued.

(4) Every non-official member shall hold office for a period of three years, but shall be, on the expiry of the term, eligible for renomination and every official member shall hold office during the pleasure of the Administrator:

Provided that, notwithstanding the expiry of the term of office, a non-official member shall continue in office until his successor has been nominated and has assumed office.

(5) No person shall be eligible to become a member of the Board if he—

- (a) is below twenty-five years of age;

- (b) has been removed from membership of a Market Committee under section 15;
- (c) is of unsound mind and stands so declared by a competent court; or
- (d) is, or at any time has been, adjudicated insolvent or convicted by a criminal court, whether within or outside the Union territory of Delhi, of any offence which, in the opinion of the Administrator, involves moral turpitude:

Provided that the disqualification on the ground of conviction by a criminal court shall not apply after the expiry of five years from the date on which the conviction became final and effective.

(6) The Chairman of the Board may resign by writing under his hand addressed to the Administrator and any other member may resign by writing under his hand addressed to the Administrator through the Chairman of the Board and the resignation shall take effect from the date on which it is accepted by the Administrator.

(7) The Administrator may remove from office any non-official member of the Board who has become subject to any of the disqualifications specified in sub-section (5) or who, in this opinion, is remiss in the discharge of his duties or has ceased to represent the interest to represent which he was nominated:

Provided that no non-official member shall be removed from office except after giving him a reasonable opportunity of showing cause against the proposed action.

(8) A casual vacancy caused by death, resignation or removal of a member, or otherwise, in the Board shall be filled by fresh nomination and the person nominated to fill the vacancy shall hold office for the remainder of the term of office of the member in whose place he was nominated.

(9) The Administrator shall exercise superintendence and control over the Board and its officers and may call for such information as he may deem necessary and, in the event of his being satisfied that the Board is not functioning properly or is persistently making default in the performance of the duties imposed on it by or under this Act or is abusing its powers or is guilty of corruption or mismanagement, may suspend the Board till such time as a new Board is constituted, and make such arrangements for the exercise of the functions of the Board as he may think fit:

Provided that no order of suspension as aforesaid shall be made except after giving the Board a reasonable opportunity of showing cause against the proposed action:

Provided further that a new Board shall be constituted within a period of six months from the date on which the Board is suspended.

(10) The Board shall exercise superintendence and control over the Market Committees.

(11) The Administrator or the Chairman or the Secretary of the Board or any other official of the Board authorised in this behalf by the Board may call for from any Market Committee or any trader godown keeper or any other functionary operating within the market area any information or return relating to agricultural produce and shall have the power to inspect the records and accounts of such Market Committee, trader, godown keeper or other functionary.

(12) The Board may transfer the Secretary or any employee dealing with accounts from one Market Committee to another Market Committee and exercise such other powers and discharge such other duties as may be specified in the regulations framed by the Board.

(13) Subject to the provisions of this Act and the rules and regulations made thereunder, the Board may employ such persons for the performance of its functions as it may consider necessary and the method of recruitment, the scale of pay and other conditions of service of such persons shall be such as may be provided in the regulations made by the Board in this behalf.

(14) (a) Subject to the rules made under this Act, an estimate of the annual income and expenditure of the Board for the ensuing year shall be prepared and passed by the Board and submitted every year, not later than the prescribed date, to the Administrator for his sanction.

(b) The Administrator may sanction the budget of the Board with such alterations or modifications as he may think fit and the budget so altered or modified by the Administrator shall be the budget of the Board for the year.

(c) The budget as sanctioned by the Administrator shall be returned to the Board within two months from the date of the receipt thereof and if it is not so returned within the said period of two months, it shall be presumed that the budget, as presented by the Board, has been duly sanctioned by the Administrator.

(15) Five members shall constitute a quorum at a meeting of the Board:

Provided that, if a meeting is adjourned for want of quorum, no quorum shall be necessary for the next meeting called for transacting the same business.

(16) All questions which come up before a meeting of the Board shall be decided by a majority of votes of the members present and voting and, in the case of an equality of votes the Chairman, or in his absence the person presiding, may exercise a second or casting vote.

(17) The Board may, with the approval of the Administrator, delegate any of its powers to its Chairman, Secretary or any of its other officers:

Provided that the person to whom such power is delegated shall function under the superintendence, direction and control of the Board.

(18) No act or proceeding of the Board shall be invalid merely by reason of the existence of any vacancy among its members or any defect in the constitution thereof.

(19) Subject to the rules made under this Act, the Board may, with the approval of the Administrator and by notification, make regulations for—

- (a) regulating the transaction of business at its meetings;
- (b) delegation of duties and powers of the Board to its Chairman or secretary or any other officer employed by it;
- (c) generally, the efficient conduct of the affairs of the Board.

CHAPTER III ESTABLISHMENT OF MARKETS AND CONSTITUTION OF MARKET COMMITTEES

6. *Establishment of markets.*—(1) For every market area, there shall be established a principal market, and

there may also be established one or more subsidiary markets, for the marketing of agricultural produce.

(2) The Director shall, as soon as possible after a declaration is made under sub-section (1) section 4, by notification, establish any place (including any structure, enclosure, open space or locality) in any market area to be the principal market for the marketing of the agricultural produce specified in such notification and may, by the same notification or by a subsequent notification, establish in any other like places in the market area subsidiary markets for the marketing of such agricultural produce.

7. *Establishment of special markets.*—(1) Where the Administrator is satisfied that on account of the specialised nature of marketing of any commodity, like fish, fresh fruits, fresh vegetables, sheep, wool or cattle, in any area, it is expedient to ensure the efficient regulation of the marketing of such commodity in such area, he may establish,—

(a) in such area special markets for such commodities, and

(b) independent market committees in relation to such special markets notwithstanding that such area falls within the local limits of the jurisdiction of any other market Committee or Committees already functioning in that area,

and every such special market and independent market committee shall be established and constituted in the same manner, in which a market and Market Committee is established and constituted under this Act.

(2) Where a special market is established under sub-section (1), the Administrator may, by notification, declare that the provisions of this Act shall, with such modifications, restrictions or limitations as may be specified in the notification, apply in respect of such special market.

8. *Constitution of market Committees.*—(1) Without prejudice to the provisions of section 7, there shall be constituted by the Administrator, for every market area, a Market Committee; and different Market Committees may be constituted for regulating the marketing of different kinds of agricultural produce marketed in the same market area or any part thereof.

(2) Every Market Committees shall exercise such powers and discharge such functions as may be vested in it by or under this Act.

9. *Composition of market Committees.*—(1) Subject to the provisions of sub-section (2), every Market Committee shall consist of the following fourteen members, namely:—

(a) six members to be elected by the agriculturists residing in the market area and holding agricultural land in the Union territory of Delhi:

Provided that where the Administrator is satisfied that the bulk of the arrivals in any market in the market area are from outside the Union territory of Delhi, he may nominate such number of members, not exceeding fifty per cent of the members representing agriculturists, as he may think fit, and such nomination shall be made from among the residents of the six neighbouring States, namely, Haryana, Himachal Pradesh, Jammu and Kashmir, Punjab, Rajasthan and Uttar Pradesh;

- (b) two members to be elected by the traders and commission agents holding licences to operate as such in the market area;
- (c) the Chairman of the co-operative society engaged in the business of processing or marketing of agricultural produce in the market area:

Provided that, if there be more than one such co-operative societies in the market area, then the managing committees of all such societies shall meet together and elect the Chairman of one of such co-operative societies as a member of the Market Committee:

Provided further that where there is no such co-operative society in the market area, the Administrator may nominate a member to represent the persons doing the business of processing or marketing of agricultural produce in the market area;

- (d) one member to be elected by the members of the local authority within the local limits of whose jurisdiction of the principal market in relation to that Market Committee is situated:

Provided that a person to whom a licence has been granted under section 34 shall not be eligible for election under this clause;

- (e) one member to be elected by the licenced weighmen and measures;
- (f) one member of the Metropolitan Council of Delhi to be elected by that Council from amongst its members, to represent the interests of consumers;
- (g) two members to be nominated by the Administrator of whom one shall represent the interests of consumers.

(2) When a Market Committee is constituted for the first time, all the members thereof, including the Chairman and the Vice-Chairman, shall be nominated by the Administrator.

(3) Without any prejudice to the provisions of sub-section (2), the Chairman of a Market Committee shall be nominated by the Administrator from among the members of the Committee.

(4) Subject to the provisions of sub-section (2), every Market Committee shall elect one of its elected members to be its Vice-Chairman.

10. Incorporation of Market Committees.—Every Market Committee shall be a body corporate by such name as the Administrator may, by notification, specify and shall have perpetual succession and a common seal and may, in its corporate name, sue and be sued and shall, subject to such restrictions as are imposed by or under this Act, be competent to contract and to acquire, hold and dispose of property, both movable and immovable, and to do all other things necessary for the purposes for which it is constituted.

11. Election and term of office of members.—(1) Except as otherwise provided in this Act and subject to the provisions of sub-section (2) of section 9, the members of a Market Committee shall be elected by the individuals, authorities or bodies referred to in sub-section (1) of section 9.

(2) The manner of election, preparation and maintenance of the lists of voters, qualifications of members,

disqualifications for being chosen as, and for being, a member, the right of vote, the payment of deposit and its forfeiture, determination of election disputes, publication of the names of members elected, and all matters ancillary thereto shall be such as may be prescribed.

(3) If, for any reason, any body of persons, local authority or co-operative society or managing committee thereof fails to elect members of any Market Committee, the Director shall give notice in writing requiring such body of persons, local authority or co-operative society or managing committee thereof to elect members within one month from the date of service of such notice; and on the failure of such body, authority, society or committee to elect members within the aforesaid period, the Director shall nominate the required number of persons who are qualified to be elected under this Act representing such body of persons, local authority or co-operative society or managing committee thereof.

(4) Except as otherwise provided in this Act, a member of a Market Committee (not being a committee constituted for the first time) shall hold office for a period of three years and the members of a Market Committee constituted for the first time shall hold office for a period of two years:

Provided that the Administrator may, by notification, extend the term of office of members of any Market Committee for a period not exceeding one year.

(5) The names of the members of a Market Committee who have been elected or nominated shall be published in the Official Gazette.

(6) Upon the publication of the names of all the members of a Market Committee after election or nomination or, as the case may be, upon the publication of the names of at least nine members of such Committee in the Official Gazette, the Market Committee shall be deemed to be duly constituted.

12. Creation of Election Fund.—(1) The superintendence, direction and control of the preparation of the list of voters, for, and conduct of, all elections to Market Committee shall be vested in the Director, and, for the purpose of preparing the list of voters and conduct of elections, every Market Committee shall constitute an Election Fund consisting of an amount equal to five per cent of all money received by it by way of fees under this Act during any year or two thousand rupees per annum whichever is less.

(2) The Election Fund shall be invested in such manner as the Director may direct, regard being had to elections to be held during a year, and the necessity to have the moneys available from the Fund for meeting the expenses in relation to the preparation of the list of voters, or for the conduct of elections, or both.

(3) Every Market Committee shall, not later than the 31st day of October, each year, inform the Director or any person authorised by him in this behalf of the amount standing to the credit of the Election Fund on the 30th day of September and also at any other time when required by the Director.

(4) Whenever the list of voters is to be prepared or revised or any election to the Market Committee is to be held, the Director or any person authorised by him in this behalf shall in writing inform the Market Committee to

deposit with him such amount and before such date as may be specified in the direction for meeting the expenses for preparing or revising the list of voters or, as the case may be, for conducting the election, or both and the Market Committee shall comply with such direction.

(5) The Director or any person authorised by him in this behalf shall, after the preparation or revision of the list of voters or after the declaration of the result of the election, draw up a statement of expenditure incurred in preparing or revising such list or in conducting the election and shall, within a period of three months from such preparation or revision of the list or declaration of the result, as the case may be, forward the same to the Market Committee for information.

(6) The balance of the amount remaining unspent, if any, shall be refused to the Market Committee and, if the expenditure incurred exceeds the amount of deposit, the Director, or any person authorised by him in this behalf, shall direct the Market Committee to pay the excess amount, as specified by him in the direction, within one month from the date of the receipt of the direction and the Market Committee shall comply with such direction.

13. Commencement of term of office of members.—(1) The term of office of members of a Market Committee shall be deemed to commence on the date of the first meeting of the Market Committee at which business is transacted :

Provided that, a person, who is a member by virtue of his being the Chairman of a co-operative society or member of a local authority or of the Metropolitan Council of Delhi, shall cease to hold office on his ceasing to be such Chairman or member, and in the case of a person who is a licensee shall cease to hold office on his ceasing to be the holder of the licence.

(2) The first meeting of the Market Committee, to be called by the Chairman, shall be held on such date as may be fixed by the Director, or any officer authorised by him in that behalf, being a date not later than thirty days from the date on which the Committee is deemed, under sub-section (6) of section 11, to be duly constituted.

(3) Where the first meeting cannot, for any reason, be held within the said period of thirty days, the Director shall report the fact to the Administrator stating the reasons for the failure to hold the meeting, and shall act according to the directions of the Administrator issued in that behalf.

(4) The term of Office of the outgoing members shall be deemed to extend to, and expire with, the date immediately preceding the date of such first meeting.

14. Resignation of members and nomination in certain circumstances.—(1) A member of a Market Committee may resign his office by writing under his hand addressed to the Chairman and the Chairman may resign his office of member by writing under his hand addressed to the Director, and the resignation shall take effect from the date on which it is accepted by the Chairman or, as the case may be, the Director.

(2) If at any time it appears to the Administrator that any Market Committee, by reason of the resignation of all or a majority of the members thereof, is unable to discharge the functions conferred or imposed upon it by or under this Act, he may by notification, nominate persons to fill the vacancies of the members who have resigned;

and the persons so nominated shall hold office for the remainder of term of the members in whose place they are nominated or until the vacancies are duly filled by election or nomination, as the case may be.

15. Removal of members for misconduct.—The Administrator may, on the recommendation of the Market Committee supported by not less than nine members, of that Committee, present and voting at a meeting remove any member if he has been guilty of neglect or misconduct in the discharge of his duties, or of any disgraceful conduct, or has become incapable of performing his duties as a member or is adjudged an insolvent.

Provided that no such member shall be removed from office unless he has been given a reasonable opportunity of being heard by the Administrator.

16. Casual vacancies.—Subject to the provisions of sub-section (3) of section 11 and sub-section (2) of section 14, in the event of a vacancy occurring on account of the death, resignation or removal of a member, whether elected or nominated, before the expiry of his term of office, or otherwise, the Chairman of the Market Committee shall forthwith communicate the occurrence of such vacancy to the Director and the vacancy shall be filled as soon as conveniently may be, by election, or, as the case may be, nomination, of a person, who shall hold office for the remainder of the term of office of the member in whose place he is elected or nominated :

Provided that, if the vacancy occurs at any time within six months immediately preceding the date on which the term of office of the member is due to expire, the vacancy shall not, unless the Administrator directs otherwise be filled.

17. Term of office of Chairman and Vice-Chairman and honorarium payable to them.—(1) The Chairman and the Vice-Chairman shall hold office for such period as may be prescribed and shall, notwithstanding the expiry of their term of office, continue to hold office until their respective successors enter upon their office.

(2) There shall be paid to the Chairman and the Vice-Chairman an honorarium of such amount as the Board may, having regard to the finances of the Market Committee, specify ; so, however, that the total amount of honorarium to be paid to each shall not exceed rupees one thousand and eight hundred per annum.

18. Procedure for election of Vice-Chairman.—(1) The Vice Chairman shall be elected in the first meeting of the Market Committee.

(2) Such meeting shall be presided over by the Director or any person authorised by him in this behalf.

(3) The Director or such person shall, when presiding over the meeting, have the same powers as the Chairman has while presiding over a meeting of the Market Committee, but shall not have the right to vote.

(4) If, in the election of the Vice-Chairman there is an equality of votes, the result of the election shall be decided by lots to be drawn in the presence of the person presiding over the meeting and in such manner as he may determine.

(5) In the event of a dispute arising as to the validity of election of the Vice-Chairman, the Director, if he is the

presiding officer, shall decide the dispute himself, and, in any other case, the person presiding shall refer the dispute to the Director or decision and the decision of the Director, subject to an appeal to the Administrator, shall be final, and no suit or other proceeding shall lie in any court in respect of any such decision.

19. Resignation of Chairman and Vice-Chairman.—(1) The Chairman of the Market Committee may resign his office by writing under his hand addressed to the Director; and the resignation shall take effect from the date on which it is accepted by the Director.

(2) The Vice-Chairman of the Market Committee may resign his office by writing under his hand addressed to the Chairman; and the resignation shall take effect from the date on which it is accepted by the Chairman.

20. Consequences of absence of Chairman without leave.—Subject to the rules made by the Administrator in this behalf, a Chairman of the Market Committee who absents himself from three consecutive meetings of the Market Committee without leave of the Board shall cease, on and from the date on which the third such meeting is held, to be the Chairman.

21. Vacancies in office of Chairman and Vice-Chairman.—(1) In the event of a vacancy in the office of the Chairman or the Vice-Chairman by reason of death, resignation, or otherwise, the vacancy shall be filled as soon as possible,—

- (a) by nomination, in the case of a Market Committee constituted for the first time; and
- (b) in any other case, in the manner provided in sub-section (3) or, as the case may be, sub-section (4) of section 9.

(2) Every Chairman or Vice-Chairman nominated or elected, as the case may be, under this section, to fill a casual vacancy shall hold office for such period as the Chairman or the Vice-Chairman in whose place he is nominated, or as the case may be, elected, would have held such office if the vacancy had not occurred.

22. Refusal to hand over charge to new Chairman or Vice-Chairman.—(1) On the nomination or election of the Chairman or Vice-Chairman, the outgoing Chairman or Vice-Chairman shall forthwith hand over charge of his office to the successor-in-office.

(2) If the outgoing Chairman or Vice-Chairman fails or refuses to hand-over charge of his office, as required under sub-section (1), the Director or any person authorised by the Director in this behalf may, by order in writing, direct such Chairman or Vice-Chairman, as the case may be, to forthwith hand over charge of his office to the successor-in-office together with all records, funds and property of the Market Committee, if any, in his possession as such Chairman or Vice-Chairman.

(3) If the outgoing Chairman or Vice-Chairman to whom a direction has been issued under sub-section (2) does not comply with such direction, the Director or any other person authorised by him in this behalf may apply to the Executive Magistrate within the local limits of whose jurisdiction the Market Committee is functioning for seizing and taking possession of the records, funds and property of the Market Committee in the possession of such Chairman or Vice-Chairman and handing over possession thereof to the successor-in-Office.

(4) On receipt of an application under sub-section (3), the Executive Magistrate may authorise any police officer, not below the rank of a sub-inspector, to enter and search any place where the records funds and property are kept or are likely to be kept and to seize them and hand over possession thereof to the person specified in such application.

(5) The provisions of the Code of Criminal Procedure, 1973, (2 of 1974) shall apply to every search and seizure under made this Act.

23. Meeting, etc. of Market Committee.—The quorum for a meeting of the Market Committee and the procedure to be followed therat shall be regulated in accordance with the bye-laws made for the purpose by the Market Committee.

24. Members to act during vacancy; acts of Market Committee, etc. not to be invalidated by informalities.—A Market Committee shall have power to act, notwithstanding any vacancy in the membership, or any defect in the constitution, thereof; and the proceedings of a Market Committee shall be valid notwithstanding that some person, who was not entitled to be a member, had sat, voted or otherwise taken part in the proceedings of any suc Committee.

CHAPTER IV

MARKET COMMITTEES—POWERS AND DUTIES

25. Powers and duties of Market Committee.

(1) Subject to the provisions of this Act, it shall be the duty of a Market Committee—

(i) to implement the provisions of this Act and of the rules and bye-laws made thereunder for the market area;

(ii) to provide such facilities for marketing of agricultural produce therein as the Board may, from time to time, direct;

(iii) to do such other as may be required in relation to the superintendence, direction and control of markets, or for regulating marketing of agricultural produce in any place, in the market area, and for purposes connected with the matters aforesaid,

and, for that purpose, may exercise such powers and perform such duties and discharge such functions as may be provided by or under this Act.

(2) Without prejudice to the generality of the foregoing provisions, a Market Committee may—

- (a) regulate the entry of persons and of vehicular traffic into the market;
- (b) supervise the conduct of those who enter the market for transacting business;
- (c) grant, renew, refuse, suspend or cancel licences;
- (d) provide for settling disputes arising out of any kind of transactions connected with the marketing of agricultural produce and all metters ancillary thereto;
- (e) prosecute persons for violating the provisions of this Act and of the rules and bye-laws made thereunder;
- (f) maintain and manage the market, including the regulation of admissions to, and conditions for use of, the market ;

(g) regulate the marketing of agricultural produce in the market area or the market, and the weighment or delivery of, or payment for, such agricultural produce;

(h) arrange for the collection—

(i) of such agricultural produce in the market area in which all trade therein is to be carried on exclusively by the Government by or under any law for the time being in force for that purpose, or

(ii) of such other agricultural produce in the market area, as the Administrator may, from time to time, notify in the Official Gazette (hereinafter referred to as the notified produce);

(i) acquire, hold and dispose of any movable or immovable property (including any equipment necessary for the purpose of efficiently carrying out its duties);

(j) collect or maintain, disseminate and supply information in respect of production, sale, storage, processing, prices and movement of agricultural produce (including information relating to crop statistics and marketing intelligence) as may be required by the Director of the Board;

(k) take all possible steps to prevent adulteration and to promote grading and standardization of such agricultural produce as may be prescribed;

(l) enforce the provisions of this Act and of the rules and bye-laws made, and conditions of the licences granted, under this Act;

(m) perform such other duties as may be prescribed.

26. Appointment of sub-committees; delegation of powers.—A Market Committee may constitute one or more sub-committees consisting of one or more of its members and, if the Committee deems it desirable, may co-opt any person with the approval of the Board or of any officer authorised by the Board in this behalf and may, subject to such restrictions and conditions as may be specified in the regulations framed by the Board, delegate to such sub-committees such of its powers or duties as it may think fit.

27. Power of the Market Committee to open collection centres for marketing of specified produce; provisions for receipt and payment by purchaser.—(1) A Market Committee duly authorised by the Administrator for the purpose may, by an order published for the information of the public in such manner as it deems fit, open collection centres for collecting thereat the produce specified in such order (hereinafter referred to as the specified produce).

(2) Where any person wishes to sell any specified produce in a market area, he shall tender all such produce only at the collection centre established for the purpose under sub-section (1):

Provided that, any such specified produce may be tendered through a commission agent or any agency specified by the Administrator in this behalf.

(3) The Market Committee shall, on the sale of such produce, get it weighed, measured or, as the case may be, counted, forthwith and arrange for issuing a receipt therefor to the person who has tendered the produce at the collection centre for sale or, as the case may be, to the commission agent or any agency and shall also arrange to give a copy of the receipt to the purchaser.

(4) Such receipt shall contain the following particulars, that is to say,—

(i) the name of the collection centre;

(ii) the name of the tenderer;

(iii) the name of the purchaser;

(iv) the name of the commission agent or agency, if any;

(v) the name of the specified produce, the weight, measure or number thereof and the fees paid for the weighing, measuring or counting such produce;

(vi) grade of specified produce, if any, and the rate;

(vii) the amount to be paid to the Market Committee by the purchaser;

(viii) the amount to be paid by the tenderer to the commission agent by way of his commission, if any, and such other market charges, as are duly authorised by the Market Committee;

(ix) the amount to be paid by the tenderer to a co-operative society under the Delhi Co-operative Societies Act, 1972 (35 of 1972);

(x) the amount of advance price received by the tenderer, if any, in respect of the specified produce;

(xi) the amount to be actually paid to the tenderer after deducting the amounts, if any, falling under clause (vii), clause (viii), clause (ix) or clause (x); and

(xii) the total amount to be paid by the purchaser in respect of the specified produce purchased by him.

(5) The dues payable to a Market Committee under clause (vii) of sub-section (4) shall consist of fees to be levied and collected from a purchaser by or under this Act.

(6) The purchaser shall, on receiving a copy of the receipt, pay forthwith the total amount to be paid by him as recorded in the receipt by drawing separate cheques payable on presentation in favour of—

(a) the Market Committee, for an amount equal to the total of the amounts referred to in clause (vii), clause (viii) or clause (ix) of sub-section (4);

(b) the tenderer for an amount equal to the amount referred to in clause (xi) of sub-section (4).

(7) The Market Committee, on receipt of the cheques, shall hand over to the tenderer the cheque drawn in his favour and arrange to pay, from the amount received by it under the cheque drawn in its favour, to the commission agent and the co-operative society, if any, the amount recorded against each of them in the receipt and credit the balance due to it to the Market Fund.

28. Power of Market Committee to levy fees.—It shall be competent for a Market Committee to levy and collect such fees (hereinafter referred to as the market fees), not being in excess of, or less than, an amount determined by the Administrator, by notification, from every purchaser of agricultural produce sold in a market area in such manner as may be prescribed and at such rates as may be specified in the bye-laws:

Provided that the amount determined by the Administrator shall not exceed one and a half per cent of the value of the agricultural produce:

Provided further that, when any agricultural produce brought into any market area for the purpose of processing only, or for export, is not processed or exported therefrom within thirty days from the date of its arrival therein, it shall, until the contrary is proved, be presumed to have been brought into the market area for buying and selling, and shall be subject to the levy of fees under this section, as if it had been brought and sold therein:

Provided also that no such fees shall be levied and collected in the same market area in relation to any agricultural produce in respect of which fees under this section have already been levied and collected therein.

29. Power to borrow.—(1) A Market Committee may, with the previous sanction of the Board, raise money required for carrying out the purposes for which it is established on the security of any property vested in it and of any fees leviable by it under this Act.

(2) This Market Committee may, for the purpose of meeting the expenditure on lands, buildings and equipment required for establishing the market, obtain a loan from the Administrator on such terms and conditions as he may determine.

(3) A Market Committee may, with the previous approval of the Board, obtain loans from other Market Committees on such conditions, and subject to such rules, as may be made.

30. Execution of contracts.—(1) Every contract entered into by a Market Committee shall be in writing and shall be executed on behalf of the Committee by the Chairman or Vice-Chairman, and two other Members of the Committee.

(2) No contract, other than a contract executed as provided in sub-section (1), shall be binding on the Market Committee.

31. Certain disputes regarding construction of rules, etc., about weights and measures to be decided by the Controller of Weights and Measures.—(1) If any dispute arises between an Inspector appointed under the Rajasthan Weights and Measures (Enforcement) Act, 1958, (Rajasthan Act 32 of 1958), as in force in the Union territory of Delhi, and any person interested, as to the meaning or construction of any rule made under that Act or as to the method of verifying, re-verifying, adjusting or stamping any weigh, or measure or weighing or measuring instrument, in any market area, such dispute may, at the request of the person interested or by the Inspector of his own accord, be referred to the Controller appointed under that Act; and the decision of the Controller shall, subject to the provisions of sub-section (2), be final.

(2) An appeal shall lie, within such time and in such manner as may be prescribed, from the decision under sub-section (1) to the Administrator or such officer as the Administrator may appoint in his behalf and the decision of the Administrator or such officer shall be final.

CHAPTER V OFFICERS AND SERVANTS OF MARKET COMMITTEE

32. Power of Market Committee to employ staff.—(1) Every Market Committee shall have as its Secretary a person appointed by the Board and whose services are lent to the Committee subject to such terms and conditions as the Board may provide by regulations made in this behalf.

(2) A Market Committee may, with the previous approval of the Secretary of the Board, employ such number of other officers and servants as may be necessary for the management of the market and the salary and conditions of service of such officers and servants shall be such as may be determined by the Board by regulations made in this behalf.

(3) Every Secretary in the service of a Market Committee constituted under the Bombay Agricultural Produce Markets Act, 1939 (Bombay Act XXII of 1939), as in force in the Union territory of Delhi immediately before the commencement of this Act, shall continue in the service of such Market Committee and shall be deemed to be the servant of the Board and his emoluments and other conditions of service shall be such as may be determined by the Board by regulations made in this behalf.

CHAPTER VI MARKETING OF AGRICULTURAL PRODUCE

33. Regulation of marketing of agricultural produce.—(1) Subject to the provisions of this section and of the rules providing for regulating the marketing of agricultural produce in any place in the market area, no person shall, on and after the date on which an area is declared under sub-section (1) of section 4 to be a market area, without, or otherwise than in conformity with the terms and conditions of, a licence granted by—

- (a) the Director, when a Market Committee has not been constituted or has not started functioning ; or,
- (b) in any other case, by the Market Committee,—
 - (i) use any place in the market area for the marketing of the agricultural produce specified in the said declaration ; or
 - (ii) operate in the market area or in any market therein as a trader, commission agent, broker, processor, weighman, measurer, surveyor, warehouseman or in any other capacity in relation to the marketing of such agricultural produce.

(2) Nothing in sub-section (1) shall apply to the retail sale by an agriculturist of his own produce, or to sale by a person, not being a trader or agriculturist, where such person himself sells to another who buys for his personal consumption or the consumption of any member of his family.

34. Grant of licences.—(1) Subject to rules made in this behalf, a Market Committee may, after making such inquiries as it deems fit, grant or renew a licence for the use of any place in the market area for the marketing of agricultural produce or for operating therein as a trader, commission agent, broker, processor, weighman, measurer, surveyor, warehouseman or in any other capacity in relation to the marketing of agricultural produce or may, after recording its reasons in writing therefor, refuse to grant or renew any such licence:

Provided that the Director may, where a Market Committee has not been constituted or has not started functioning, subject to any rules that may be made in this behalf, grant a licence for the marketing of agricultural produce or for operating in any market area as a trader, commission agent, broker, processor, weighman, measurer, surveyor, warehouseman or in any other capacity.

- (2) A licence granted under sub-section (1),—
 - (a) shall be in such form, valid for such period, and subject to such terms, conditions, restrictions and

limitations as may be prescribed and such restrictions may include a provision prohibiting brokers and commission agents from acting in any transaction (except between a trader and a trader) in respect of agricultural produce other than poultry, cattle, sheep and goats and such other agricultural produce as may be prescribed; and

(b) may also specify,—

- (i) the manner in which and the place at which auction of agricultural produce shall be conducted and bids at such auction shall be accepted;
- (ii) places at which weighment and delivery of agricultural produce shall be made in any market or market area and on payment of such fees as may be prescribed.

35. Power to cancel or suspend licences.—(1) Subject to the provisions of sub-section (3), a Market Committee may, for reasons to be recorded in writing, suspend or cancel a licence granted or renewed under this Chapter,—

- (a) if the licence had been obtained through wilful misrepresentation or fraud;
- (b) if the holder of the licence or any servant or any one acting on his behalf with his express or implied permission commits a breach of any of the terms or conditions of the licence;
- (c) if the holder of the licence in combination with other holders of licences commits any act or abstains from carrying out his normal business in the market with the intention of wilfully obstructing, suspending or stopping the marketing of agricultural produce in the market area;
- (d) if the holder of the licence has been adjudged an insolvent, and has not obtained his discharge; or
- (e) if the holder of the licence is convicted of any offence under his Act.

(2) Notwithstanding anything contained in sub-section (1) but subject to the provisions of sub-section (3), the Director may, for reasons to be recorded in writing, by order, suspend or cancel any licence granted or renewed under this Chapter.

(3) No licence shall be suspended or cancelled under this section, unless the holder thereof has been given a reasonable opportunity of showing cause against the proposed action.

36. Appeal.—(1) Any person aggrieved by an order—

- (a) of the Market Committee, refusing to grant or renew a licence, or cancelling or suspending any licence, may appeal to the Board;
- (b) of the Director, refusing to grant or cancelling or suspending a licence, may appeal to the Administrator,

within thirty days from the date on which such order is communicated to him and in such manner as may be prescribed.

(2) The Board or, as the case may be, the Administrator shall, on such appeal, make such order as it or he may deem just and proper:

Provided that, before dismissing an appeal, the Board or, as the case may be, the Administrator shall give the appellant a reasonable opportunity of being heard, and record in writing the reasons for such dismissal.

37. Provision for settlement of disputes.—(1) For the purpose of settling disputes between buyers and sellers

of agricultural produce or their agents including any disputes regarding quality or weight or payment, or any matter in relation to the regulation of marketing of agricultural produce in the market area, the Market Committee constituted for that market area may appoint arbitrators or constitute from amongst its members a sub-committee.

(2) The method of appointment of arbitrators, the constitution and function of the sub-committees and the fees, if any, that may be paid by parties for the settlement of disputes shall be such as may be prescribed.

(3) Any party aggrieved by the decision of the arbitrator or the sub-committee, may prefer an appeal from such decision to the Board in such manner and within such time as may be prescribed.

CHAPTER VII MARKETING DEVELOPMENT FUND AND MARKET FUND

38. Marketing Development Fund.—(1) All moneys received by the Board shall be credited into a fund to be called the Marketing Development Fund.

(2) All expenditure incurred by the Board shall be defrayed from such Fund which shall be jointly operated by the Chairman and the Secretary.

(3) The amount standing to the credit of the Marketing Development Fund shall be kept or invested in such manner as may be prescribed.

(4) The amount standing to the credit of the Marketing Development Fund shall be expended for all or any of the following purposes, namely:—

- (i) better marketing of agricultural produce;
- (ii) marketing of agricultural produce on co-operative lines;
- (iii) collection and dissemination of market rates and news;
- (iv) grading and standardisation of agricultural produce;
- (v) general improvements in the markets or their respective areas;
- (vi) maintenance of the office of the Board and construction and repair of its office buildings, rest houses and staff quarters;
- (vii) giving aid to financially weak Market Committees in the shape of loans, or grants, or both;
- (viii) payment of salary, leave, allowance, gratuity, compassionate allowance, compensation for injuries or death resulting from accidents, while on duty, medical aid, pension or provident fund to the persons employed by the Board and leave and pension contributions to Government servants on deputation;
- (ix) payment of travelling and other allowances to the members and employees of the Board;
- (x) propaganda, demonstration and publicity in favour of agricultural improvements;
- (xi) production and betterment of agricultural produce;
- (xii) meeting any legal expenses incurred by the Board;
- (xiii) imparting education in marketing of agricultural produce;
- (xiv) construction of godowns;
- (xv) expenses incurred in auditing the accounts of the Board;
- (xvi) with the previous sanction of the Administrator, any other purpose which is calculated to promote the general interest of the Board and the Market Committees or the national or public interest;

Provided that, if the Board decides to give aid to more than five thousand rupees to a financially weak market Committee under clause (vii), prior approval of the Administration to such payment shall be obtained.

39. Market Fund, its custody and investment.—(1) All fees and other moneys received by a Market Committee under this Act (except the amount of such fees credited to the Election Fund under section 12) all sums realised by way of penalty (otherwise than by way of a fine in a criminal case), all loans raised by the Committee, and all grants, loans or contributions made by the Administrator to the Committee shall form part of a fund to be called the Market Fund.

(2) The amount to the credit of a Market Fund shall be kept or invested in such manner as may be prescribed.

(3) Every Market Committee shall, out of the Market Fund, pay—

(a) to the Board, as contribution, such percentage of its income derived from licence fee and market fee, as well as the amount paid to it under sub-section (4) of section 59, as is specified below, to enable the Board to defray its expenses on the office establishment and other expenses incurred by it in the interest of the Market Committee generally,—

(i) if the annual income of a Market Committee does not exceed Rs. 10,000 .. 10 per centum;

(ii) if the annual income of a Market Committee exceeds Rs. 10,000 but does not exceed Rs. 15,000—
on the first Rs. 10,000 .. 10 per centum;
on the next Rs. 5,000 .. 15 per centum;
in part thereof .. 15 per centum;

(iii) if the annual income of a Market Committee exceeds Rs. 15,000—
on the first Rs. 10,000 .. 10 per centum;
on the next Rs. 5,000 .. 15 per centum;
on the remaining income .. 20 per centum;

(b) to the Administrator, the cost of any special or additional staff employed by the Government, in consultation with the Market Committee, for giving effect to the provisions of this act in the market area.

(4) The Administrator shall determine the cost of the special or additional staff referred to in clause (b) of sub-section (3) and shall, where the staff is employed for the purposes of more Market Committees than one, apportion such cost among the Market Committees concerned in such manner as he thinks fit, and the decision of the Administrator determining the amount payable by any Market Committee shall be final.

40. Purposes for which Market Fund may be expended.—The amount standing to the credit of the Market Fund may be expended for all or any of the following purposes, namely:

- (a) the acquisition of site or sites for the market;
- (b) maintenance, development and improvement of the market;
- (c) construction of, and repairs to, buildings necessary for the purposes of such market and/or the health, convenience and safety of persons using it;

- (d) the provision and maintenance of standard weights and measures;
- (e) pay, pension and leave, allowances, gratuities, compensations for injuries or death resulting from accidents, compassionate allowances and contributions towards leave, allowances, pensions or provident fund of the officers and servants employed by the Market Committee;
- (f) the payment of interest on loan, if any, raised by the Market Committee and the provision of sinking fund in respect of such loan;
- (g) the collection and dissemination of information regarding matters relating to crop-statistics and marketing in respect of the agricultural produce specified in the notification under sub-section (1) of section 4;
- (h) propaganda in favour of agricultural improvement and orderly marketing;
- (i) payment of travelling and other allowances to the members of the Market Committee and its sub-committees and of sub-committees, if any, constituted under section 37;
- (f) the payment of honorarium to the Chairman and Vice-Chairman under sub-section (2) of section 17;
- (k) giving grant or donation to any institution or body conducting any educational or welfare activities for the benefit of agriculturists in the market area, subject to the condition that the amount of such grant or donation does not exceed, in the aggregate, ten per cent. of the net amount remaining after deducting the expenditure from the revenues of the year immediately preceding the year in which such grant or donation is made;
- (l) expenses of any Tribunal constituted under sub-section (4) of section 60;
- (m) any other function of the Market Committee specified in this Act or in the rules made thereunder;
- (n) for any other purpose, with the previous approval of the Administrator.

41. Manner of auditing accounts, preparing budget, annual report, etc.—The manner in which any payment from the Marketing Development Fund or Market Fund shall be made, its account shall be kept and audited or re-audited (including powers to be exercised by the auditor in that behalf), its annual, revised or supplementary budget estimates of income and expenditure shall be made (including provision for modifying, annulling or rescinding such budgets) and its annual administration report shall be prepared, shall be such as may be prescribed.

CHAPTER VIII TRADE ALLOWANCES PROHIBITED

42. Making or recovery of trade allowance prohibited.—No person shall make, or cause to be made on his behalf or on behalf of any other person, or recover, or cause to be recovered on his behalf or on behalf of any other person, any trade allowance in any market or market area in relation to any transaction made or proposed to be made in the market area in respect of any agricultural produce.

Explanation.—For the purposes of this section, “trade allowance” means any deduction in price or rate of the agricultural produce on account of any variation in the quality, weight, container, sample or admixture.

CHAPTER IX

CONTROL BY THE BOARD

43. Inspection, inquiry, submission of statements etc.—The Board, or any officer authorised by it by general or special order in this behalf, may—

- (a) inspect or cause to be inspected the accounts and offices of a Market Committee;
 - (b) hold inquiry into the affairs of a Market Committee;
 - (c) call for any return, statement, accounts or report which it or he may think fit to require such Committee to furnish;
 - (d) require a market Committee to take into consideration—
 - (i) any objection which appears to it or him to exist to the doing of anything which is about to be done or is being done by or on behalf of such Committee, or
 - (ii) any information it, or he, is able to furnish and which appears to it or him to necessitate the doing of a certain thing, which is not being done by such Committee,
- and make a written reply to it or him within a reasonable time stating its reasons for doing or not doing such thing;
- (e) direct, pending consideration of their reply made under clause (d), that anything which is about to be done or is being done, should not be done and anything which should be done but is not being done, should be done within such time as it or he may direct.

44. Duty of officers, servants and members of Market Committee to furnish information to Board, authorised officers and Administrator.—(1) When the accounts and offices of a Market Committee are inspected, or the affairs of such Committee are inquired into, under section 43, or the proceedings of such Committee are examined under section 46, all officers, servants and members of such Committee shall furnish such information in their possession in regard to the accounts and officers or affairs or proceedings of such Committee as the Board, or the officers authorised by the Board, as the case may be, may require.

(2) The Board or any officer inspecting the accounts and offices, or inquiring into the affairs, of a Market Committee under section 43, or the Board examining the proceedings of such Committee under section 46, shall, for the purposes of such inspection, inquiry or examination, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

- (a) the summoning and enforcing the attendance of any officer, servant or member of the Market Committee and examining him on oath;
- (b) the discovery and production by any officer, servant or member of the Market Committee of any document or other material object producible as evidence; and
- (c) the reception of evidence on affidavits.

(3) Any officer exercising the powers conferred by sub-section (2) shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45. Seizure of account books and other documents.—Where the Board has reason to believe that the books and records of a Market Committee are likely to be tampered

with or destroyed or the funds or property of a Market Committee are likely to be misappropriated or misapplied, the Board may issue an order directing a person duly authorised by it in writing to seize and take possession of such books and records, funds and property of a Market Committee, and the officer or officers of the Market Committee responsible for the custody of such books, records, funds and property, shall give delivery thereof to the person so authorised.

46. Power of Board to call for proceedings of Market Committees and to pass orders thereon.—The Board may, at any time, call for and examine the proceedings of any Market Committee for the purpose of satisfying itself as to the legality or propriety of any decision or order passed by the Market Committee under this Act, and if, in any case, it appears to the Board that any decision or order or proceedings so called for should be modified, annulled or reversed, the Board may pass such order thereon as it thinks fit.

47. Amalgamation or division of Market Committees.—(1) Where the Administrator is satisfied that, for securing efficient regulation of marketing of agricultural produce in a market area, it is necessary that two or more Market Committees therein should be amalgamated, any Market Committee therein shall be divided into two or more Market Committees, he may, after consulting the Market Committees or Market Committee, as the case may be, and the Board, by notification, provide for the amalgamation of such Market Committees into a single Market Committee or division of the Market Committee into two or more Market Committees for the market area in respect of the agricultural produce specified in the notification with such constitution, property, rights, interests and authorities and such liabilities, duties and obligations (including provision in respect of contracts, assets, employees, proceedings and such incidental, consequential and supplementary matters as may be necessary to give effect to such amalgamation or, as the case may be, the division) as may be specified in the notification.

(2) Where more Market Committees than one are established in any market area under sub-section (1), the Administrator may notwithstanding anything contained in this Act, issue general or special direction as to which of the Market Committees shall exercise the powers, perform the duties and discharge the functions of a Market Committee under this Act, in respect of matters in which they are jointly interested.

(3) Where any direction is issued under sub-section (2), the cost incurred by a Market Committee in pursuance of the direction shall be shared by the other Market Committee concerned in such proportion as may be agreed upon, or, in default of agreement, as may be determined by the Administrator or such officer as he may direct in this behalf and the decision of the Administrator or such officer, as the case may be, shall be final.

48. Supersession of Market Committee, etc.—(1) If, in the opinion of the Administrator, a Market Committee, or any member thereof, is not competent to perform, or persistently makes default in performing, the duties imposed on it or him by or under this Act, or abuses its or his powers or wilfully disregards any instructions issued by the Administrator or any officer duly authorised by him in this behalf and arising out of audit of accounts of the Market Committee or inspection of the office and work thereof, the Administrator may,

for reasons to be recorded by him in writing and after giving the Committee or member, as the case may be, an opportunity of tendering an explanation, by notification, supersede, such Market Committee, or remove such member, as the case may be; and, where a member is removed the vacancy so caused shall be filled in the same manner, and subject to the same condition in regard to term of office, as provided in section 16.

(2) Upon the publication of a notification under sub-section (1) superseding a Market Committee, the following consequences shall ensue, that is to say,—

- (a) all members of the Market Committee shall, as from the date of such publication, be deemed to have vacated their offices;
- (b) all the assets of the Committee shall vest in the Board and the Board shall be liable for all legally enforceable liabilities of the Committee, subsisting on the date of its supersession, to the extent of the said assets;
- (c) the Administrator may, by order, either constitute a new Market Committee in accordance with the provisions contained in Chapter III or make such other arrangements for the carrying out of the functions of the Market Committee as the thinks fit.

(3) If the Administrator constitutes a new Market Committee under clause (c) of sub-section (2), he shall transfer the assets and liabilities of the Market Committee, as on the date immediately preceding the date of such transfer, to the new Market Committee so constituted.

(4) Where the Administrator does not constitute a new Market Committee under clause (c) of sub-section (2), the balance of the assets of the Market Committee as may be left after meeting all the liabilities of such Committee shall continue to vest in the Board and the Board shall utilise the said assets for such objects of public utility as the Administrator may by order specify as being conducive to the regulation of the marketing of agricultural produce in the market area.

CHAPTER X

PENALTIES

49. Penalty for not complying with directions under sub-section (2) of section 22.—If the outgoing Chairman or Vice-Chairman, to whom a direction has been issued under sub-section (2) of section 22, does not, except for reasons beyond his control, comply with such direction, he shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

50. Penalty for contravention of section 33.—Whoever, in contravention of the provisions of sub-section (1) of section 33, uses any place in the market area for the marketing of the agricultural produce specified in the declaration made under sub-section (1) of section 4, or operates in the market area or in any market therein as a trader, commission agent, broker, processor, weighman, measurer, surveyor, warehouseman, or in any other capacity in relation to the marketing of agricultural produce specified in such declaration, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both; and, in the case of a continuing

contravention, with a further fine which may extend to fifty rupees for every day, after the first, during which the contravention continues.

51. Penalty for making or recovering trade allowance.—Whoever, in contravention of the provisions of section 42, makes or causes to be made or recovers or causes to be recovered any trade allowance shall, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

52. Penalty for obstruction of officer and failure to obey order under section 43.—Whoever obstructs any officer in carrying out the inspection of accounts, or in holding any inquiry into the affairs, of a Market Committee or fails to obey any order with reference to any matter specified in clause (a), clause (c), clause (d) or clause (e) of section 43, shall, be punished with fine which may extend to two hundred rupees for every day during which the offence continues.

53. Penalty for contravening provisions of section 44.—If any officer, servant or member of a Market Committee, when required under section 44 to furnish information in regard to the accounts and offices or affairs of the Market Committee or the proceedings of a Market Committee,—

- (a) wilfully neglects or refuses to furnish any information; or
- (b) wilfully furnishes information which is false or incorrect in material particulars, such officer, servant or member shall, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

54. Penalty for contravention of section 45.—Whoever, in contravention of the provisions of section 45 obstructs any person in seizing or taking possession of any books, records, funds or property of the Market Committee or fails to give delivery thereof to such person, shall be punished with fine which may extend to two hundred rupees.

55. General provision for punishment of offence.—Whoever contravenes any provision of this Act or of any rule or bye-law made thereunder shall, if no other penalty is provided for such contravention elsewhere in this Act or in the rules or bye-laws, be punished with fine which may extend to two hundred rupees.

CHAPTER XI

MISCELLANEOUS

56. Liability of members or employees of Board or Market Committees.—(1) Every member or employee of the Board or any Market Committee shall be liable for the loss, wastage, misappropriation or misapplication of any money or other property belonging to a Market Committee, if such loss, wastage, misappropriation or misapplication is proved to the satisfaction of the Board to be the direct consequence of the neglect or misconduct on the part of such member or employee, and he may, after being given an opportunity by a written notice to show cause why he should not be required to make good the loss, be required by the Board to make good the amount of money or the value of the property so lost wasted, misappropriated or misapplied, and, if the money or the value of the property is not made good within one month from the expiry of the period of appeal speci-

fied in sub-section (3), an amount equal to the money or the value of the property shall be recoverable from such member or employee as an arrear of land revenue:

Provided that no such member or employee shall be called upon to show cause after the expiry of a period of four years from the occurrence of such loss, wastage, misappropriation or misapplication or after the expiry of a period of two years from the time of his ceasing to be a member or an employee of the Board or Market Committee, as the case may be, whichever is earlier.

(2) Every member or employee of the Board shall be liable for the loss, wastage, misappropriation or misapplication of any money or other property belonging to the Board, if such loss, wastage, misappropriation or misapplication is proved to the satisfaction of the Board to be the direct consequence of the neglect or misconduct on the part of such member or employee in the performance of his duties as such member or employee, and he may, after being given an opportunity by a written notice to show cause why he should not be required to make good the loss, be required by the Board to make good the amount of the money or the value of the property so lost, wasted, misappropriated or misapplied, and, if the money or the value of the property is not made good within one month from the expiry of the period of appeal specified in sub-section (3), an amount equal to the money or the value of the property shall be recoverable from such member or employee as an arrear of land revenue:

Provided that no such member or employee shall be called upon to show cause after the expiry of a period of four years from the occurrence of such loss, wastage, misappropriation or misapplication or after the expiry of a period of two years from the time of his ceasing to be a member or an employee of the Board, whichever is earlier.

(3) The member or employee against whom an order under sub-section (1) or sub-section (2) is made, may, within thirty days from the date of the service of such order, appeal to the Administrator who shall have the power of confirming, modifying or reversing the order made by the Board.

(4) In computing the period of two years or four years, as the case may be, the period during which any proceeding was stayed or the period during which any appeal or revision against the order for making good the loss, remained pending, shall be excluded.

57. Chairman etc. of the Board and the Market Committee to be public servants.—The Chairman, the members, the Secretary and other officers and servants of the Board and the Chairman, Vice-Chairman, members, Secretary and other officers and servants of a Market Committee shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

58. Bar of suit in the absence of notice.—(1) No suit or other legal proceeding shall be instituted against the Board or any Market Committee or any member, officer or servant thereof or any person acting under the direction of any such Board, Market Committee, member, officer or servant for anything done or purported to be done, in good faith as such member, officer, or servant under this Act, until the expiration of two months next after notice in writing, stating the cause of action, the name and place of residence of the intending plaintiff and the relief which he claims, has been, in the case of the Board

or Market Committee, delivered or left at its office, and in the case of any such member, officer, servant or person as aforesaid, delivered to him or left at his office or usual place of residence, and the plaint shall contain a statement that such notice has been so delivered or left.

(2) Every such suit shall be dismissed unless it is instituted within six months from the date of accrual of the alleged cause of action.

(3) Nothing in this section shall be deemed to apply to any suit instituted under section 38 of the Specific Relief Act, 1963 (47 of 1963).

59. Trial of offences.—(1) No offence under this Act, or any rule or bye-law made thereunder, shall be tried by a court inferior to the court of a Judicial Magistrate of the first class.

(2) No prosecution under this Act shall be instituted except by the Director or any officer authorised by him in that behalf or by the Secretary or by any other person duly authorised by the Board or the Market Committee, as the case may be, in that behalf.

(3) No court shall take cognizance of any offence under this Act or any rule, order or bye-law made thereunder, unless complaint thereof is made within six months from the date on which the alleged commission of the offence came to the knowledge of the Director, officer, Secretary or person referred to in sub-section (2).

(4) All fines received by a court from an offender shall be credited to the Government revenues and an amount equal to such fine shall be paid by the Government to the Board or the Market Committee, as the case may be.

60. Recovery of sums due to Government, Board, Market Committee and others.—(1) Every sum due from the Board or a Market Committee to the Government shall be recoverable as an arrear of land revenue.

(2) Subject to the provisions of sub-section (3) of section 63, any sum due to the Board or a Market Committee on account of any charge, costs, expenses, fees, rent or on any other account under the provisions of this Act or any rule or bye-law made thereunder or any sum due to an agriculturist for any agricultural produce, specified under sub-section (1) of section 27, sold by him in the market area and which is not paid to him as provided by or under this Act, shall be recoverable from the person from whom such sum is due, in the same manner as if it were an arrear of land revenue.

(3) If any question arises whether a sum is due to the Board or Market Committee or any agriculturist within the meaning of sub-section (2), it shall be referred to a Tribunal constituted for the purpose which shall, after making such inquiry as it may deem fit, and after giving to the person from whom it is alleged to be due, an opportunity of being heard, decide the question and the decision of the Tribunal shall be final.

(4) The Administrator may constitute one or more Tribunals consisting of one person, possessing such qualifications as may be prescribed who is not connected with the Board or Market Committee or the agriculturist.

turist, as the case may be, or with the person from whom the sum is alleged to be due.

(5) Except as otherwise directed by the Tribunal in the circumstances of any case, the expenses of the Tribunal, as computed by it, shall, ordinarily, be borne by the party against whom a decision is given.

61. Power of Administrator to delegate powers.—The Administrator may, by notification, and subject to such conditions, if any, as he may think fit to impose, delegate all or any of the powers conferred upon him by or under any of the provisions of this Act to the Board or any other officer or person specified in the notification.

62. Power to exempt the Board, Market Committee etc. from provisions of the Act.—(1) The Central Government may, by general or special order, published in the Official Gazette, exempt the Board or any Market Committee or any class of persons from any of the provisions of this Act or any rule, regulation or bye-law made thereunder or may direct, in like manner, that the provisions of this Act shall apply to the Board or any Market Committee or any class of persons with such modifications, not affecting the substance thereof, as may be specified in that order.

(2) All orders made under sub-section (1) shall be laid, as soon as may be after they are made, before each House of Parliament.

(3) The Administrator, may, by general or special order, published in the Official Gazette, direct that any rule, regulation or bye-law made under this Act shall apply to the Board or any Market Committee or any class of persons with such modifications, not affecting the substance thereof, as may be specified in that order.

63. Power to make rules.—(1) The Administrator may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the manner of holding an inquiry under section 4;
- (b) preparation of the estimates of annual income and expenditure of the Board under sub-section (14) of section 5 and matters connected therewith;
- (c) the manner in which the members of a Market Committee may be elected, under section 11, including all matters incidental to such election;
- (d) term or office and other conditions of service of Chairman or Vice-Chairman of the Market Committee under sections 17 and 20;
- (e) the duties of Market Committees under sub-section (2) of section 25 and the promotion of the grading and standardisation of such agricultural produce as may be specified in the rule, under clause (k) of that sub-section;
- (f) the manner of levy and collection of market fees by Market Committee, under section 28;
- (g) the conditions subject to which loans may be obtained by a Market Committee from another Market Committee under sub-section (3) of section 29;
- (h) the manner in which and the time within which an appeal may be filed under sub-section (2) of section 31 or sub-section (2) of section 71;

- (i) the form of licence and the terms and conditions subject to which a licence may be granted or renewed, including the fees to be paid in respect of such licence, under section 34;
- (j) the fees payable in connection with the weighing and delivery of agricultural produce under section 34;
- (k) the manner in which an appeal may be filed under sub-section (1) of section 36;
- (l) the composition of sub-committees, method of appointment of arbitrators and the fees, if any, that may be paid by parties for the settlement of disputes, the procedure to be followed by the sub-committees or arbitrators for the settlement of disputes and the manner in which and the time within which an appeal may be preferred from the decision of the sub-committee or arbitrator under section 37;
- (m) the manner in which the amount to the credit of a Marketing Development Fund or a Market Fund shall be kept or invested under sub-section (3) of section 38 or, as the case may be, sub-section (2) of section 39;
- (n) travelling and other allowances payable to the members of the Board or the Market Committees;
- (o) the manner in which payment from the Marketing Development Fund or Market Fund shall be made, its account shall be kept or audited or re-audited, budget estimates of income and expenditure shall be made and annual administration report shall be prepared under section 41;
- (p) the qualifications of a member of a Tribunal constituted under sub-section (4) of section 60;
- (q) any other matter which is required to be, or may be, prescribed.

(3) Any rule made under this section may provide that, if any purchaser fails to make the payment forthwith as required by sub-section (6) of section 27, he shall be liable to pay interest from the date of sale to the date of payment at such rate as may be provided in such rule, such rate not being in excess of the maximum rate of interest fixed for unsecured loans by banking institutions and if payment is not made within thirty days from the date on which the agricultural produce is sold, the principal and interest shall be recoverable by the Market Committee from the purchaser in the manner provided in section 60.

(4) Any rule made under the provisions of this Act may provide that the contravention thereof shall, on conviction, be punished with fine which may extend to five hundred rupees.

(5) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(6) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

64. Power to make regulations.—(1) The Board may, with the previous approval of the Administrator and by notification, make regulations, not inconsistent with any rules made under this Act, for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (a) the method of recruitment, the scales of pay and other conditions of service of employees of the Board;
- (b) regulation of transaction of business at the meetings of the Board;
- (c) delegation of duties and powers of the Board to its Chairman or Secretary or any other officer employed by it;
- (d) delegation of duties and powers of the Market Committees to its sub-committees;
- (e) terms and conditions regarding lending of services of Secretary and the salary and other conditions of service of other officers and servants of Market Committees.

65. Bye-laws.—(1) Subject to any rules and regulations made under this Act, and with the previous sanction of the Board or any other officer specially empowered in this behalf by the Administrator, a Market Committee may, in respect of the market area for which it is constituted or any markets established therein, make bye-laws for determining the quantity of agricultural produce which may be provided for retail sale, for the regulation of the business (including meeting, quorum and procedure) of the Market Committee, and the conditions of trading in the market area, including the rates and manner of collection or refund of market fees or any other fees levied under this Act.

(2) Where a Market Committee fails to make bye-laws under this section within six months from the date on which this Act comes into force or the date of its constitution, whichever is later, the Board may make such bye-laws as it may think fit and the bye-laws so made shall remain in operation in relation to that Market Committee.

(3) (a) Notwithstanding anything contained in this Act or the rules, regulations or bye-laws made thereunder, if the Board considers that an amendment, alteration, rescission or adoption of a new bye-law is necessary or desirable in the interests of a Market Committee, it may, by an order in writing to be served on the Market Committee by registered post, require the Market Committee to make such amendment, alteration, rescission or adoption of new bye-law within such time as may be specified in such order.

(b) If the Market Committee fails to make the amendment, alteration or rescission or to adopt the new bye-law within the time specified by the Board in its order under clause (a), the Board may, after giving the Market Committee an opportunity of being heard, register such amendment, alteration, rescission or adoption of such new bye-law, and issue a certified copy thereof to the Market Committee.

(c) The Market Committee may, within thirty days from the date of issue of the certified copy referred to in clause (b), appeal against such order to the Administrator.

(d) Where an appeal is presented within the period specified in clause (c), the amendment, alteration,

rescission or new bye-law shall not come into force till the order is confirmed by the Administrator.

(e) A certified copy of the amendment, alteration, rescission or the new bye-law registered by the Board under clause (b) shall, subject to the result of an appeal, if any, under clause (c), be conclusive evidence that the same has been duly registered and such amendment, alteration, rescission or new bye-law shall be deemed to have been made by the Market Committee.

(4) No bye-law or rescission of a bye-law or its alteration or amendment shall take effect until it has been confirmed by the Board and notified in the Official Gazette.

(5) Any bye-law made under the provisions of this Act may provide that any contravention thereof shall, on conviction, be punished with fine which may extend to one hundred rupees.

66. Power of Administrator to amend Schedule.—The Administrator may, after consulting the Board and Market Committees concerned, by notification, include in the Schedule any item of agricultural produce or, amend, or exclude, any of the items of agricultural produce specified in the Schedule.

67. Power of Administrator to transfer assets etc. in cases of Market Committees constituted for excluded areas under Bombay Act 22 of 1939.—When, before the commencement of this Act, any area comprised in any market area was excluded from such market area under section 4 of the Bombay Agricultural Produce Markets Act, 1939, as in force in the Union territory of Delhi immediately before the commencement of this Act, and the area so excluded was declared as a separate market area and a Market Committee was constituted therefor, and both the Market Committees continue to function immediately after such commencement and the assets, rights and liabilities of the separate Market Committee are not yet determined, then, the Administrator may, by notification, after consulting the Market Committee concerned, provide for the transfer of the assets, rights and liabilities of the Market Committee in relation to the area so excluded (including the rights and liabilities under any contract made by it) to the separate Market Committee on such terms and conditions as may be specified in such notification.

68. Power to write off irrecoverable fees, etc.—Whenever it is found that any amount due to the Board or a Market Committee is irrecoverable or should be remitted, or whenever any loss of the Board's or a Market Committee's money or stores or other property occurs through the fraud or negligence of any person or for any other cause and such money or property is found to be irrecoverable, the fact shall be reported to the Board or Market Committee, as the case may be, and the Board, with the approval of the Administrator, and the Market Committee, with the approval of the Board, may order the amount or value of the property to be written off as lost, irrecoverable or remitted, as the case may be:

Provided that in the case of Market Committee, if in any case the amount due or the value of such property is in excess of one hundred rupees, such order shall not take effect unless it is approved by the Administrator.

69. Revision.—Notwithstanding anything contained in this Act, the Administrator shall have the power of reversing or modifying any order of the Board or any

of its officers passed or purporting to have been passed under this Act if he is satisfied that such order is not in accordance with the provisions of this Act, or any rule, regulation or bye-law made thereunder.

70. Power to compound offences.—(1) With the previous approval of the Chairman of the Board, a Market Committee or with the authorisation by a resolution of a Market Committee, its Chairman, may accept from any person against whom a reasonable suspicion exists that he has committed an offence under this Act, or any rule, regulation or bye-law made thereunder, a sum of money by way of composition for such offence.

(2) On the payment of such amount of money to the Market Committee or to its Chairman, as the case may be, the suspected person, if in custody, shall be discharged and no further proceedings shall be taken against such person.

71. Power of the Committee and Chairman to impose penalties.—(1) A Market Committee and its Chairman shall have the power, by order, to impose the penalties of censure and fine on any market functionary or agriculturist or purchaser for the contravention of any bye-law, after giving the person concerned a reasonable opportunity of being heard:

Provided that the Market Committee shall not be competent to impose fine exceeding twenty-five rupees and the Chairman shall not be competent to impose fine exceeding five rupees.

(2) An appeal against an order under sub-section (1) shall lie to the Board, within such time and in such manner as may be prescribed.

72. Repeal and saving.—(1) On the commencement of this Act, the Bombay Agricultural Produce Markets Act, 1939 (Bombay Act 22 of 1939), shall cease to be in force in the Union territory of Delhi:

Provided that such cesser shall not affect the previous operation of the enactment aforesaid and anything done or any action taken (including any appointment, delegation or declaration made, notification, order, rule, direction or notice issued, bye-law framed, Market Committee established, licences granted, fees levied and collected, instruments executed, any fund established or constituted) by or under the provisions of any such enactment shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act, and shall continue in force unless and until superseded by anything done or any action taken under this Act.

(2) Any area or place declared to be a market area or any place or market declared to be a market under the enactment so ceasing to be in force shall, on the commencement of this Act, be deemed to be the market area or market declared under this Act; the Market Committee constituted for the said market area and functioning immediately prior to such commencement shall be deemed, notwithstanding anything contained in this Act to be the Market Committee constituted under this Act for such market area, and, where it is so declared or notified, also for the agricultural produce specified in the declaration or notification; and all the members of such Market Committee shall be deemed to be members nominated by the Administrator under sub-section (2) of section 9.

(3) Any reference to the enactment ceasing to be in force as afore said or to any provision thereof or to any officer, authority or person entrusted with any functions thereunder, in any law for the time being in force or in any instrument or document, shall be construed, where necessary, as a reference to the corresponding provisions of this Act or to the corresponding officer, authority or person functioning under this Act, and the corresponding officer, authority or person, as the case may be, shall have and exercise the functions under such law, instrument or document.

(4) The mention of particular matters in this section shall not affect the general application to this Act of section 6 of the General Clauses Act, 1897 (10 of 1897), as if the Bombay Agricultural Produce Markets Act, 1939 (22 of 1939), as applicable to the Union territory of Delhi, had been repealed by this Act.

73. Power to remove difficulties.—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, as occasion requires, by order not inconsistent with the provisions of this Act, do anything which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the commencement of this Act.

THE SCHEDULE

[See section 2 (1) (b) and section 66]

I. Animal husbandry products—

1. Butter.
2. Cattle.
3. Eggs.
4. Ghee.
5. Goat.
6. Hides and skins.
7. Milk.
8. Poultry.
9. Sheep.
10. Wool.

II. Apiculture—

Honey.

III. Cattle feeds—

1. Guwar.
2. Punvad.

IV. Cereals—

1. Bajra.
2. Barley.
3. Inferior millets, for example, swank, kodra, kangani, etc.
4. Jawar.
5. Maize.
6. Oats.
7. Paddy (husked and unhusked).
8. Wheat (husked and unhusked).

V. Condiments, spices and others—

1. Betel leaves.
2. Betelnuts.
3. Cardamom and pepper.
4. Cashewnuts.
5. Chillies.
6. Coriander.

7. Dalchini.
8. Garlic.
9. Ginger.
10. Ilachi.
11. Long.
12. Methi.
13. Rai (mustard).
14. Sonf.
15. Turmeric.
16. Zeera.

VI. Fibres—

1. Cotton (ginned and unginned).
2. Sanhemp.

VII. Fruits—

1. Almonds.
2. Apples.
3. Banana.
4. Cherry.
5. Chickoo.
6. Fig.
7. Grapes.
8. Guava.
9. Kakri.
10. Leechi.
11. Lemon.
12. Malta.
13. Mango.
14. Melon.
15. Mosambi.
16. Papaya.
17. Peaches.
18. Pears.
19. Plums.
20. Pomegranate.
21. Santra.
22. Strawberry.
23. Water melons.

VIII. Grass and fodder—

IX. Gur, sugar, sugarcane, khandsari, shakkar and rashkat

X. Narcotics—

Tobacco.

XI. Oilseeds—

1. Castor seed.
2. Cotton seed.
3. Groundnut (shelled and unshelled).
4. Linseed.
5. Sarson.
6. Sesamum.
7. Taramira.
8. Toria.

XII. Pisciculture—

Fish.

XIII. Pulses—

1. A har.
2. Beans.
3. Gram.
4. Guara.
5. Mash.
6. Masur.
7. Moth.
8. Mung.
9. Peas.
10. Urd.

XIV. Vegetables—

1. Arvi.
2. Carrots—all types.
3. Cucumber—all types.
4. Gobhi—all types.
5. Kachalu.
6. Leafy and fresh vegetables.
7. Onion.
8. Peas—all types.
9. Potatoes and sweet potatoes.
10. Tomatoes.

Assented to on 7-9-1976.

**THE LABOUR PROVIDENT FUND LAWS
(AMENDMENT) ACT, 1976**

(ACT NO. 99 OF 1976)

AN

ACT

further to amend the Coal Mines Provident Fund, Family Pension and Bonus Schemes Act, 1948, the Employees' Provident Funds and Family Pension Fund Act, 1952, the Wealth-tax Act, 1957 and the Income-tax Act, 1961.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title and commencement.—(1) This Act may be called the Labour Provident Fund Laws (Amendment) Act, 1976.

(2) The provisions of section 30 and 31 shall come into force at once and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of August, 1976.

CHAPTER II

**AMENDMENT OF THE COAL MINES PROVIDENT FUND,
FAMILY PENSION AND BONUS SCHEMES ACT, 1948**

2. Amendment of long title.—In the long title to the Coal Mines Provident Fund, Family Pension and Bonus Schemes Act, 1948 (46 of 1948), (hereinafter referred to as the Coal Mines Provident Fund Act), after the words "Family Pension Scheme", the words "a Deposit-linked Insurance Scheme" shall be inserted.

3. Amendment of section 1. For sub-section (1) of section 1 of the Coal Mines Provident Fund Act, the following sub-section shall be substituted, namely:—

"(1) This Act may be called the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948."

4. Amendment of section 2.—In section 2 of the Coal Mines Provident Fund Act,—

(i) in clause (c), the word "or the contribution payable in respect of an employee to whom the Insurance Scheme applies" shall be inserted at the end;

(ii) after clause (f), the following clauses shall be inserted, namely:—

(fa) "Insurance Fund" means the Deposit-linked Insurance Fund established under sub-section (2) of section 3G;

(fb) "Insurance Scheme" means the Coal Mines Deposit-linked Insurance Scheme framed under sub-section (1) of section 3G;'

(iii) clause (ff) shall be re-lettered as clause (fr).

5. Amendment of section 3A.—In section 3A of the Coal Mines Provident Fund Act,—

(a) in sub-section (3), after the word, figure and letter "section 3E", the words, figure and letter "and section 3G" shall be inserted;

(b) in sub-section (4), for the words "and the Coal Mines Family Pension Scheme", the words, "the Coal Mines Family Pension Scheme and the Insurance Scheme" shall be substituted.

6. Amendment of section 3C.—In sub-section (3) of section 3C of the Coal Mines Provident Fund Act, for the words "and the Coal Mines Family Pension Scheme", the words, "the Coal Mines Family Pension Scheme and the Insurance Scheme" shall be substituted.

7. Insertion of new section 3G.—After section 3F of the Coal Mines Provident Fund Act, the following section shall be inserted, namely:—

'3G. Coal Mines Deposit—Linked Insurance Scheme.'

(1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Coal Mines Deposit-linked Insurance Scheme for the purpose of providing life insurance benefits to such employees as are covered by the Coal Mines Provident Fund Scheme.

(2) There shall be established, as soon as may be after the framing of the Insurance Scheme, a Deposit-linked Insurance Fund into which shall be paid by the employer from time to time in respect of every such employee, in relation to whom he is the employer, such amount, not being more than one per cent of the aggregate of the basic wages, dearness allowance and retaining allowance (if any) for the time being payable in relation to such employee, as the Central Government may, by notification in the Official Gazette, specify:

Explanation.—For the purposes of this sub-section,—

(a) the expression "basic wages" has the meaning assigned to it in the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952);

(b) "dearness allowance" means all cash payments, by whatever name called, paid to an employee on account of a rise in the cost of living and shall be deemed to include also the cash value of any food concession allowed to the employee;

(c) "retaining allowance" means an allowance payable for the time being to an employee of any coal mine during any period in which the coal mine is not working, for retaining his services.

(3) The Central Government shall, after due appropriation made by Parliament by law, contribute to the Insurance Fund in relation to each employee covered by the Coal Mines Provident Fund Scheme, an amount representing one-half of the contribution which an employer is required, by sub-section (2), to make.

(4) (a) The employer shall pay into the Insurance Fund such further sums of money, not exceeding one-fourth of the contribution which he is required to make under sub-section (2), as the Central Government may, from time to time, determine, to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under that scheme.

(b) The Central Government shall, after due appropriation made by Parliament by law, pay into the Insurance Fund such further sums of money representing one-half of the sums payable by the employer under clause (a), to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under that scheme.

(5) The Insurance Fund shall vest in the Board and shall be administered by the Board in such manner as may be specified in the Insurance Scheme.

(6) Any scheme framed under the provisions of sub-section (1) may provide for all or any of the matters specified in the Third Schedule.'

8. Amendment of section 5.—In sub-section (2) of section 5 of the Coal Mines Provident Fund Act, for the words "Third Schedule", the words "Fourth Schedule", shall be substituted.

9. Amendment of section 7.—In section 7 of the Coal Mines Provident Fund Act, after the words "amend or vary", the words "either prospectively or retrospectively" shall be inserted.

10. Amendment of section 7A.—In section 7A of the Coal Mines Provident Fund Act, for the words "two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following", the words "two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

11. Amendment of section 8.—In sub-section (3) of section 8 of the Coal Mines Provident Fund Act, after the words "Coal Mines Family Pension Scheme", the words "and also in relation to any amount payable under the Insurance Scheme" shall be inserted.

12. Amendment of section 10.—In sub-section (1) of section 10 of the Coal Mines Provident Fund Act, after the words "Coal Mines Provident Fund Scheme", the words "or the Insurance Scheme" shall be inserted.

13. Amendment of section 10E.—In sub-section (1) of section 10E of the Coal Mines Provident Fund Act, for the words and brackets "The amount of contribution (that is to say the employer's contribution as well as the employee's contribution)", the words and brackets "The amount of contribution (that is to say the employer's contribution as well as the employee's contribution in pursuance of the Coal Mines Provident Fund Scheme and the employer's contribution in pursuance of the Insurance Scheme)" shall be substituted.

14. Insertion of new sections 11C and 11D.—After section 11B of the Coal Mines Provident Fund Act, the following sections shall be inserted, namely:—

'11C. Power to exempt.—(1) The Central Government may, if requested so to do by the employer, by

notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt any coal mine from the operation of all or any of the provisions of the Insurance Scheme, if it is satisfied that the employees of such coal mine are, without making any separate contribution or payment of premium, in enjoyment of benefits in the nature of life insurance, whether linked to their deposits in provident fund or not, and such benefits are more favourable to such employees than the benefits admissible under the Insurance Scheme.

(2) Without prejudice to the provisions of sub-section (1), the Insurance Scheme may provide for the exemption of any person or class of persons employed in any coal mine and covered by that scheme from the operation of all or any of the provisions thereof, if the benefits in the nature of life insurance admissible to such person or class of persons are more favourable than the benefits provided under the Insurance Scheme.

(3) Where, in respect of any person or class of persons employed in any coal mine, an exemption is granted under this section from the operation of all or any of the provisions of the Insurance Scheme (whether such exemption is granted to the coal mine wherein such person or class of persons is employed or to the person or class of persons as such), the employer in relation to such coal mine—

(a) shall, in relation to the benefits in the nature of life insurance, to which any such person or class of persons is entitled, or any insurance fund, maintain such accounts, submit such returns, make such investment, provide for such facilities for inspection and pay such inspection charges, as the Central Government may direct;

(b) shall not, at any time after the exemption, without the leave of the Central Government, reduce the total quantum of benefits in the nature of life insurance to which any such person or class of persons was entitled immediately before the date of the exemption; and

(c) shall, where any such person leaves his employment and obtains re-employment in any other coal mine, transfer within such time as may be specified in this behalf by the Central Government, the amount of accumulations to the credit of that person in the insurance fund of the coal mine left by him to the credit of that person's account in the insurance fund of the coal mine in which he is re-employed or, as the case may be, in the Deposit-linked Insurance Fund.

Explanation.—For the purposes of this sub-section “insurance fund” means any fund established by an employer under any scheme for providing benefits in the nature of life insurance to employees, whether linked to their deposits in provident fund or not, without payment by the employees of any separate contribution or premium in that behalf.

(4) Any exemption granted under this section may be cancelled by the authority which granted it, by order in writing, if an employer fails to comply—

(i) in the case of an exemption granted under sub-section (1), with any of the conditions imposed under that sub-section or with any of the provisions of sub-section (3);

(b) in the case of an exemption granted under sub-section (2), with any of the provisions of sub-section (3).

(5) Where any exemption granted under sub-section (1) or sub-section (2) is cancelled, the amount of accumulations to the credit of every employee to whom such exemption applied, in the insurance fund of the coal mine in which he is employed shall be transferred within such time and in such manner as may be specified in the Insurance Scheme to the credit of his account in the Insurance Fund.

11D. *Act to have effect notwithstanding anything contained in Act 31 of 1956.*—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Life Insurance Corporation Act, 1956.’

15. Insertion of new Third Schedule.—The Third Schedule to the Coal Mines Provident Fund Act shall be renumbered as the Fourth Schedule and before the Fourth Schedule as so re-numbered, the following Schedule shall be inserted, namely:—

“THE THIRD SCHEDULE

(See section 3G)

MATTERS TO BE PROVIDED FOR IN THE COAL MINES DEPOSIT-LINKED INSURANCE SCHEME

1. The employees or class of employees who shall be covered by the Insurance Scheme.
2. The manner in which the accounts of the Insurance Fund shall be kept and the investment of moneys belonging to the Insurance Fund, subject to such pattern of investment as may be determined, by order, by the Central Government.
3. The form in which an employee shall furnish particulars about himself and the members of his family whenever required.
4. The nomination of a person to receive the insurance amount due to the employee after his death and the cancellation or variation of such nomination.
5. The registers and records to be maintained in respect of employees: the form or design of any identity card, token or disc for the purpose of identifying any employee or his nominee or member of his family entitled to receive the insurance amount.
6. The scales of insurance amount which shall not be less than the average balance in the account of the employee conceded in the Fund during a period of three years immediately preceding his death or more than rupees ten thousand.
7. The minimum average balance to be maintained by an employee in the Fund to make him eligible for the benefits under the scheme.
8. The manner in which the amount due to the nominee or the member of the family of the employee under the scheme is to be paid including a provision that the amount shall not be paid otherwise than in the form of a deposit in a savings bank account, in the name of such nominee or member of family, in any corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970).

9. Any other matter which is to be provided for in the Insurance Scheme or which may be necessary or proper for the purpose of implementing that scheme.'

CHAPTER III

AMENDMENT OF THE EMPLOYEES' PROVIDENT FUNDS AND FAMILY PENSIONS FUND ACT, 1952

16. Amendment of long title.—In the long title to the Employees' Provident Funds and Family Pension Fund Act, 1952 (19 of 1952) (hereinafter referred to as the Employees' Provident Funds Act), for the words "and family pension fund", the words "family pension fund and deposit-linked insurance fund" shall be substituted.

17. Amendment of section 1.—For sub-section (1) of section 1 of the Employees' Provident Funds Act, the following sub-section shall be substituted, namely:—

"(1) This Act may be called the Employees' Provident Funds and Miscellaneous Provisions Act, 1952."

18. Amendment of section 2.—In section 2 of the Employees' Provident Funds Act,—

(a) in clause (c), the words "or the contribution payable in respect of an employee to whom the Insurance Scheme applies" shall be inserted at the end;

(b) in clause (ff), after the words "a Scheme", the words "or the Insurance Scheme, as the case may be", shall be inserted;

(c) in clause (fff), after the words "any Scheme", the words "or the Insurance Scheme, as the case may be" shall be inserted;

(d) clause (ia) shall be re-lettered as clause (ic) and before clause (ic) as so re-lettered, the following clauses shall be inserted, namely:—

"(ia) "Insurance Fund" means the Deposit-linked Insurance Fund established under sub-section (2) of section 6C;

(ib) "Insurance Scheme" means the Employees' Deposit-linked Insurance Scheme framed under sub-section (1) of section 6C';

19. Amendment of section 5A.—In Section 5A of the Employees' Provident Funds Act,—

(a) in sub-section (3), after the word, figure and letter "section 6A", the words, figure and letter "and section 6C" shall be inserted;

(b) in sub-section (4), for the words "and the Family Pension Scheme", the words "the Family Pension Scheme and the Insurance Scheme" shall be substituted.

20. Amendment of sections 5D and 5E.—In sub-section (3) of section 5D, and section 5E, of the Employees' Provident Funds Act, for the words "and the Family Pension Scheme", the words "the Family Pension Scheme and the Insurance Scheme" shall be substituted.

21. Insertion of new section 6C.—After section 6B of the Employees' Provident Funds Act, the following section shall be inserted, namely:—

6C. Employees' Deposit-linked Insurance Scheme—

(1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Deposit-linked Insurance Scheme for the purpose of providing life insurance benefits to the employees of any establishment or class of establishments to which this Act applies.

(2) There shall be established, as soon as may be after the framing of the Insurance Scheme, a Deposit-linked Insurance Fund into which shall be paid by the employer from time to time in respect of every such employee in relation to whom he is the employer, such amount, not being more than one per cent of the aggregate of the basic wages, dearness allowance and retaining allowance (if any) for the time being payable in relation to such employee as the Central Government may, by notification in the Official Gazette, specify.

Explanation.—For the purposes of this sub-section, the expressions "dearness allowance" and "retaining allowance" have the same meanings as in section 6.

(3) The Central Government shall, after due appropriation made by Parliament by law, contribute to the Insurance Fund in relation to each employee, of any establishment or class of establishments to which this Act applies, an amount representing one-half of the contribution which an employer is required, by sub-section (2), to make.

(4) (a) The employer shall pay into the Insurance Fund such further sums of money, not exceeding one-fourth of the contribution which he is required to make under sub-section (2), as the Central Government may, from time to time, determine to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under that scheme.

(b) The Central Government shall, after due appropriation made by Parliament by law, pay into the Insurance Fund such further sums of money representing one-half of the sums payable by the employer under clause (a) to meet all the expenses in connection with the administration of the Insurance Scheme other than the expenses towards the cost of any benefits provided by or under that scheme.

(5) The Insurance Fund shall vest in the Central Board and be administered by it in such manner as may be specified in the Insurance Scheme.

(6) The Insurance Scheme may provide for all or any of the matters specified in Schedule IV.

(7) The Insurance Scheme may provide that any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in that Scheme.'

22. Amendment of section 7.—In sub-section (1) of section 7 of the Employees' Provident Funds Act, for the words "amend or vary the Scheme or the Family Pension Scheme, as the case may be", the words "amend or vary, either prospectively or retrospectively, the Scheme, the Family Pension Scheme or the Insurance Scheme, as the case may be" shall be substituted.

23. Amendment of section 7A.—In sub-section (1) of section 7A of the Employees' Provident Funds Act, after the words "Family Pension Scheme", the words "or the Insurance Scheme" shall be inserted.

24. Amendment of section 8.—In clause (a) of section 8 of the Employees' Provident Funds Act,—

(a) for the word "scheme", wherever it occurs, the words "Scheme or the Insurance Scheme" shall be substituted;

- (b) for the words "the Fund", the words "the Fund or, as the case may be, the Insurance Fund" shall be substituted.

25. Amendment of section 8A.—In section 8A of the Employees' Provident Funds Act,—

- (a) in sub-section (1), for the words and brackets "The amount of contribution (that is to say the employer's contribution as well as the employee's contribution)", the words and brackets "The amount of contribution (that is to say the employer's contribution as well as the employee's contribution in pursuance of any scheme and the employer's contribution in pursuance of the Insurance Scheme)" shall be substituted;
- (b) in sub-section (2), after the words "employee's contribution", the words "under any scheme" shall be inserted.

26. Amendment of section 10.—In sub-section (3) of section 10 of the Employees' Provident Funds Act, after the words "Family Pension Scheme", the words "and also in relation to any amount payable under the Insurance Scheme" shall be inserted.

27. Amendment of section 11.—In sub-section (1) of section 11 of the Employees' Provident Funds Act,—

(a) in clause (a)—

- (i) for the words "Scheme", in both the places where it occurs, the words "Scheme or the Insurance Scheme" shall be substituted;
- (ii) after the words "the Fund", the words "or, as the case may be, the Insurance Fund" shall be inserted;
- (b) in clause (b), for the words "the provident fund", in both the places where they occur, the words "the provident fund or any insurance fund" shall be substituted;
- (c) the following *Explanation* shall be inserted at the end, namely:—

Explanation.—In this sub-section and in section 17, "insurance fund" means any fund established by an employer under any scheme for providing benefits in the nature of life insurance to employees, whether linked to their deposits in provident fund or not, without payment by the employees of any separate contribution or premium in that behalf.

28. Amendment of section 12.—In section 12 of the Employees' Provident Funds Act,—

- (a) for the word "Scheme", wherever it occurs, the words "Scheme or the Insurance Scheme" shall be substituted;
- (b) for the words "the Fund" the words "the Fund or the Insurance Fund" shall be substituted;
- (c) for the words "or provident fund", the words "provident fund or life insurance" shall be substituted.

29. Amendment of section 13.—In section 13 of the Employees' Provident Funds Act,—

- (a) in sub-section (1), for the words "or the Family Pension Scheme", the words "the Family Pension Scheme or the Insurance Scheme" shall be substituted;

- (b) in sub-section (2), for the word "Scheme", wherever it occurs, the words "Scheme or the Insurance Scheme" shall be substituted.

30. Amendment of section 14.—In section 14 of the Employees' Provident Funds Act,—

- (a) for the words "or the Family Pension Scheme", wherever they occur, the words "the Family Pension Scheme or the Insurance Scheme" shall be substituted;
- (b) after sub-section (1A), the following sub-section shall be inserted, namely:—
- (1B) An employer who contravenes, or makes default in complying with, the provisions of section 6C, or clause (a) of sub-section (3A) of section 17 in so far as it relates to the payment of inspection charges, shall be punishable with imprisonment for a term which may extend to six months but which shall not be less than one month and shall also be liable to fine which may extend to two thousand rupees:

Provided that the court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term or of fine only in lieu of imprisonment".

31. Amendment of sections 14A, 14AA, 14 AC and 17B.—In section 14A, section 14 AA, section 14AC and section 17 B of the Employees' Provident Funds Act, for the words "the Family Pension Scheme", wherever they occur, the words "the Family Pension Scheme or the Insurance Scheme" shall be substituted.

32. Amendment of section 14B.—In section 14B of the Employees' Provident Funds Act,—

- (a) for the words "or the Family Pension Fund", the words "the Family Pension Fund or the Insurance Fund" shall be substituted;
- (b) for the words "any Scheme", the words "any Scheme or Insurance Scheme" shall be substituted.

33. Amendment of section 14C.—In sub-section (1) of section 14C of the Employees' Provident Funds Act, for the words "or the Family Pension Fund", the words "the Family Pension Fund or the Insurance Fund" shall be substituted.

34. Amendment of section 17.—In section 17 of the Employees' Provident Funds Act,—

- (a) after sub-section (2), the following sub-sections shall be inserted, namely:—
- (2A) The Central Government may, if requested so to do by the employer, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt any establishment from the operation of all or any of the provisions of the Insurance Scheme, if it is satisfied that the employees of such establishment are, without making any separate contribution or payment of premium, in enjoyment of benefits in the nature of life insurance, whether linked to their deposits in provident fund or not, and such benefits are more favourable to such employees than the benefits admissible under the Insurance Scheme.

(2B) Without prejudice to the provisions of sub-section (2A), the Insurance Scheme may provide for the exemption of any person or class of persons employed in any establishment and covered by the scheme from the operation of all or any of the provisions thereof, if the benefits in the nature of life insurance admissible to such person or class of persons are more favourable than the benefits provided under the Insurance Scheme.”;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) Where, in respect of any person or class of persons employed in any establishment, an exemption is granted under sub-section (2A) or sub-section (2B) from the operation of all or any of the provisions of the Insurance Scheme (whether such exemption is granted to the establishment where in such person or class of persons is employed or to the person or class of persons as such), the employer in relation to such establishment—

(a) shall, in relation to the benefits in the nature of life insurance, to which any such person or class of persons is entitled, or any insurance fund, maintain such accounts, submit such returns, make such investments, provide for such facilities for inspection and pay such inspection charges, as the Central Government may direct;

(b) shall not, at any time after the exemption without the leave of the Central Government reduce the total quantum of benefits in the nature of life insurance to which any such person or class of persons was entitled immediately before the date of the exemption; and

(c) shall, where any such person leaves his employment and obtains re-employment in any other establishment to which this Act applies, transfer within such time as may be specified in this behalf by the Central Government, the amount of accumulations to the credit of that person in the insurance fund of the establishment left by him to the credit of that person's account in the insurance fund of the establishment in which he is re-employed or, as the case may be, in the Deposit-linked Insurance Fund.”;

(c) in sub-section (4), after clause (b), the following clauses shall be inserted, namely:—

“(c) in the case of an exemption granted under sub-section (2A), with any of the conditions imposed under that sub-section or with any of the provisions of sub-section (3A);

(d) in the case of an exemption granted under sub-section (2B), with any of the provisions of sub-section (3A).”;

(d) in sub-section (5),—

(i) for the words, brackets and figure “or sub-section (2)”, the words, brackets, figures and letters “, sub-section (2), sub-section (2A) or sub-section (2B)” shall be substituted;

(ii) for the words “or the family pension fund”, the words “, the family pension fund or the insurance fund” shall be substituted;

(iii) after the words “Family Pension Scheme”, the words “or the Insurance Scheme” shall be inserted;

(iv) after the words “Family Pension Fund”, the words “or the Insurance Fund” shall be inserted.

35. Insertion of new section 17AA.—After section 17A of the Employees' Provident Funds Act, the following section shall be inserted, namely:—

“17AA. Act to have effect notwithstanding anything contained in Act 31 of 1956.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Life Insurance Corporation Act, 1956.”.

36. Amendment of section 18.—In section 18 of the Employees' Provident Funds Act, the words “or the Insurance Scheme” shall be inserted at the end.

37. Amendment of section 19.—In section 19 of the Employees' Provident Funds Act, in the opening paragraph, for the words “or the Family Pension Scheme”, the words “, the Family Pension Scheme or the Insurance Scheme” shall be substituted.

38. Insertion of new Schedule IV.—After Schedule III to the Employees' Provident Funds Act, the following Schedule shall be inserted, namely:—

“SCHEDULE IV

(See section 6 C)

MATERIALS TO BE PROVIDED FOR IN THE EMPLOYEES' DEPOSIT-LINKED INSURANCE SCHEME

1. The employees or class of employees who shall be covered by the Insurance Scheme.

2. The manner in which the accounts of the Insurance Fund shall be kept and the investment of moneys belonging to the Insurance Fund subject to such pattern of investment as may be determined, by order, by the Central Government.

3. The form in which an employee shall furnish particulars about himself and the members of his family whenever required.

4. The nomination of a person to receive the insurance amount due to the employee after his death and the cancellation or variation of such nomination.

5. The registres and records to be maintained in respect of employees; the form or design of any identity card, token or disc for the purpose of identifying any employee or his nominee or member of his family entitled to receive the insurance amount.

6. The scales of insurance amount which shall not be less than the average balance in the account of the employee concerned in the Fund or any other provident fund during a period of three years immediately preceding his death or more than rupees ten thousand.

7. The minimum average balance to be maintained by an employee in the Fund or any other provident fund to make him eligible for the benefits under the scheme.

8. The manner in which the amount due to the nominee or the member of the family of the employee under the scheme is to be paid including a provision that the amount shall not be paid otherwise than in the form of a deposit in a savings bank account, in the name of such nominee or member of family, in any corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970).

9. Any other matter which is to be provided for in the Employees' Deposit-linked Insurance Scheme or which may be necessary or proper for the purpose of implementing that Scheme.”.

CHAPTER IV

AMENDMENT OF THE WEALTH-TAX ACT, 1957 AND THE INCOME-TAX ACT, 1961

39. Amendment of Act 27 of 1957.—In the Wealth-tax Act, 1957, in sub-section (1) of section 5, after clause (xviib), the following clause shall be inserted, namely:—

“(xviiia) any property held—

- (a) by the Board of Trustees constituted under the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), on behalf of the Deposit-linked Insurance Fund established under section 3G of that Act ; or
- (b) by the Board of Trustees constituted under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), on behalf of the Deposit-linked Insurance Fund established under section 6C of that Act;”.

40. Amendment of Act 43 of 1961.—In the Income-tax Act, 1961,—

(a) in section 10, in clause (25), after sub-clause (iv), the following sub-clause shall be inserted, namely:—

“(v) any income received—

(a) by the Board of Trustees constituted under the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), on behalf of the Deposit-linked Insurance Fund established under section 3G of that Act; or

(b) by the Board of Trustees constituted under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), on behalf of the Deposit-linked Insurance Fund established under section 6C of that Act;”;

(b) in section 17, in clause (2), in sub-clause (v), after the words “superannuation fund”, the words, figures and letters “or a Deposit-linked Insurance Fund established under section 3G of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), or, as the case may be, section 6C of the Employees' Provident

Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) shall be inserted.

41. Repeal and saving.—(1) The Labour Provident Fund Laws (Amendment) Ordinance, 1976 (9 of 1976) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Coal Mines Provident Fund Act, the Employees' Provident Funds Act, the Wealth-tax Act, 1957 and the Income-tax Act, 1961, as amended by the Ordinance so repealed (including any scheme framed or notification issued), shall be deemed to have been done or taken under the corresponding provisions of the respective Act aforesaid as amended by this Act.

Assented to on 7th September, 1976.
THE METAL CORPORATION (NATIONALISATION AND MISCELLANEOUS PROVISIONS) ACT, 1976

ACT NO. 100 OF 1976

AN ACT

to provide for the taking over of the management of the undertaking of the Metal Corporation, after such undertaking is deemed to have been transferred to, and re-vested in, the said Corporation, and for the subsequent acquisition of the undertaking of the Metal Corporation for the purpose of enabling the Central Government, in the public interest, to exploit to the fullest extend possible, the zinc and lead deposits in and around Jawar area in the State of Rajasthan and to utilise those minerals in such manner as to subserve the common good, and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title and commencement.—(1) This Act may be called the Metal Corporation (Nationalisation and Miscellaneous Provisions) Act, 1976.

(2) Sections 20 and 21 shall come into force at once and the other provisions of this Act shall be deemed to have come into force on the 22nd day of October, 1965.

2. Definitions.—In this Act, unless the context otherwise requires,—

- (a) “appointed day” means the 2nd day of August, 1976 ;
- (b) “commencement of this Act” means the 22nd day of October, 1965 ;
- (c) “Metal Corporation” means the Metal Corporation of India Limited, a company within the meaning of the Companies Act, 1956, (1 of 1956), and having its registered office at Calcutta ;
- (d) “Mineral Concession Rules” means the Mineral Concession Rules, for the time being in force, made by the Central Government under the Mines and Minerals (Regulation and Development) Act, 1957 (67 of 1957) ;
- (e) “notification” means a notification published in the Official Gazette ;

- (f) "prescribed" means prescribed by rules made under this Act;
- (g) words and expressions used in this Act and not defined but defined in the Companies Act, 1956 (1 of 1956), have the meanings respectively assigned to them in that Act.

3. "Undertaking"—Meaning of.—For the purposes of this Act, the undertaking of the Metal Corporation shall be deemed to include all assets, rights, leaseholds (including mining leases, if any), powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works, mines, workshops, projects, shelters, refineries, stores, instruments, machinery, locomotives, automobiles and other vehicles, mined or extracted zinc or lead ores, concentrates and metals, in process or in stock or in transit, cash balances, cash in hand, reserve fund, investments and book debts and all other rights and interests in, or arising out of, such property as were immediately before the date of commencement of this Act in the ownership, possession, power or control of the Metal Corporation, whether within or without India, and all books of account, registers, maps, sections, drawings, records of survey and all other documents of whatever nature relating thereto; and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind of the Metal Corporation in relation to its undertaking.

CHAPTER II

TAKING OVER OF MANAGEMENT OF THE UNDERTAKING OF THE METAL CORPORATION

4. Taking over of management of the undertaking of the Metal Corporation.—(1) On the commencement of this Act, the Metal Corporation of India (Acquisition of Undertaking) Act, 1966, (36 of 1966) shall stand repealed, and on such repeal, the undertaking of Metal Corporation, which had been transferred to, and vested in, the Central Government by virtue of the provisions of section 3 of the Act so repealed, and the undertaking of the Metal Corporation together with all its properties, assets, liabilities and obligations specified in sub-section (1) of section 4 of that Act and such other properties, assets, liabilities and obligations, acquired or incurred, for the purposes of its undertaking after the 22nd day of October, 1965, which stood, by virtue of the provisions of section 12 of the said Act, transferred to, and vested in, the Government company formed in pursuance of the provisions of section 12 of the Act aforesaid shall, by virtue of the provisions of this Act, be deemed to have been transferred to, and re-vested in the Metal Corporation, and, immediately thereafter, the management of the undertaking of the Metal Corporation shall be deemed to have been transferred to, and vested in, the Central Government.

(2) Any contract, whether express or implied, or other arrangement, in so far as it relates to the management of the business and affairs of the undertaking of the Metal Corporation, and in force immediately before the commencement of this Act, shall be deemed to have terminated on such commencement.

(3) All persons in charge of the management including persons holding offices as directors, managers or in any other managerial capacity specified in section 197A of the Companies Act, 1956 (1 of 1956), of the Metal Corporation immediately before the commencement of this Act, shall be deemed to have vacated their offices as such commencement.

(4) Notwithstanding anything contained in any other law for the time being in force, no person in respect of whom any contract of management or other arrangement is terminated by reason of the provisions of sub-section (2) or who ceases to hold office by reason of the provisions contained in sub-section (3), shall be entitled to claim any compensation for the premature termination of the contract of management or other arrangement or for the loss of office, as the case may be.

5. Appointment of Administrator to take over the management of the undertaking.—(1) The Central Government may, as soon as it is convenient administratively so to do, appoint, with effect from such earlier or later date (not being a date earlier than the commencement of this Act), any person or body of persons (including a Government company, whether in existence at the commencement of this Act or incorporated thereafter) as the Administrator of the Undertaking of the Metal Corporation and the Administrator so appointed shall carry on the management of such undertaking for and on behalf of the Central Government.

(2) On the appointment of the Administrator under sub-section (1), the management of the undertaking of the Metal Corporation shall vest in such Administrator and all persons in charge of the management of such undertaking immediately before such appointment shall cease to be in charge of such management and shall be bound to deliver to the Administrator all assets, books of account, registers and other documents in their custody relating to the undertaking of the Metal Corporation.

(3) The Central Government may issue such directions (including instructions as to initiating, defending or continuing any legal proceedings before any court, tribunal or other authority) to the Administrator as to his powers and duties as the Central Government may deem desirable and the Administrator may also apply to the Central Government at any time for instructions as to the manner in which the management of the undertaking of the Metal Corporation, or in relation to any other matter arising in the course of such management, shall be conducted.

(4) Where any property, the management of which has vested in the Central Government under section 4, is in the possession, custody or control of any person, such person shall deliver the property to the Central Government forthwith.

(5) Any person who, at the commencement of this Act, has in his possession or under his control any books, papers or other documents relating to the undertaking of the Metal Corporation shall be liable to account for such books, papers and other documents to the Administrator and shall deliver them up to the Administrator or to such person as may be authorised by the Central Government or the Administrator in this behalf.

(6) The Metal Corporation shall, within such period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all the properties and assets (including particulars of book debts and investments and belongings) of the Metal Corporation at the commencement of this Act, all liabilities and obligations of the Metal Corporation, subsisting at such commencement and also of all agreements entered into by the Metal Corporation and in force on such commencement, including agreements,

whether express or implied, relating to have, pension, gratuity and other terms of service of any officer or other employee of the Metal Corporation under which, by virtue of the provisions of this Act, the Central Government has, or will have, or may have, liabilities, and for this purpose, the Central Government shall afford the Metal Corporation all reasonable facilities.

(7) The Administrator shall hold office during the pleasure of the Central Government and shall receive, from the funds of the undertaking of the Metal Corporation such remuneration as may be fixed by the Central Government.

6. *Application of Act 1 of 1956.*—(1) Notwithstanding anything contained in the Companies Act, 1956, or in the memorandum or articles of association of the Metal Corporation, so long as the management of the undertaking of the Metal Corporation remains vested in the Central Government,—

- (a) it shall not be lawful for the shareholders of the Metal Corporation or any other person to nominate or appoint any person to be a director of the Metal Corporation;
- (b) no resolution passed at any meeting of the shareholders of the Metal Corporation on or after the commencement of this Act shall be given effect to unless approved by the Central Government;
- (c) no proceeding for the winding up of the Metal Corporation or for the appointment of liquidator or receiver in respect of the undertaking thereof shall lie in any court except with the consent of the Central Government.

(2) Subject to the provisions contained in sub-section (1), and to the other provisions contained in this Act and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification, specify in this behalf, the Companies Act, 1956 (1 of 1956), shall continue to apply to the Metal Corporation in the same manner as it applied thereto before the date of commencement of this Act.

CHAPTER III

ACQUISITION OF THE UNDER TAKING OF THE METAL CORPORATION

7. *Vesting of the undertaking of the Metal Corporation in the Central Government.*—(1) On the appointed day, the undertaking of the Metal Corporation, and the right, title and interest of the Metal Corporation in relation to its undertaking, shall stand transferred to, and shall vest absolutely in the Central Government.

(2) Subject to the other provisions contained in this Act, all property included in the undertaking of the Metal Corporation which has vested in the Central Government under sub-section (1) shall, by force of such vesting, be freed and discharged from any trusts, obligations, mortgages, charges, liens and other incumbrances affecting it, and any attachment, injunction or any decree or order of a court, tribunal or other authority restricting the use of such property in any manner shall be deemed to have been withdrawn.

Explanation.—For the removal of doubts, it is hereby declared that the mortgagee of any property included in the undertaking of the Metal Corporation, or and other

person holding any charge, lien or other interest in, or in relation to, any such property, shall be entitled to claims, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, from the Central Government but no such mortgage, charge, lien or the interest shall be enforceable against any property which has vested in the Central Government.

(3) Subject to the other provisions contained in this Act, all contracts and working arrangements which are subsisting immediately before the appointed day and affecting the Metal Corporation shall, in so far as they relate to the undertaking of the Metal Corporation, cease to have effect or be enforceable against the Metal Corporation or any person who was surety or had guaranteed the performance thereof and shall be of as full force and effect against or in favour of the Central Government and enforceable as fully and effectually as if, instead of the Metal Corporation, the Central Government had been named therein or had been a party thereto.

(4) Subject to the other provisions contained in this Act, any proceeding or cause of action pending or existing immediately before the appointed day by or against the Metal Corporation or the Central Government or the Government company referred to in section 12 of the Metal Corporation of India (Acquisition of Undertaking) Act, 1966 (36 of 1966), in relation to the undertaking of the Metal Corporation may, as from that day, be continued and enforced by or against the Central Government or the Government company referred to in section 9, as it might have been enforced by or against the Metal Corporation, the Central Government or the Government company, as the case may be, if this Act had not been promulgated, and shall cease to be enforceable by or against the Metal Corporation, its surety or guarantor.

8. *Central Government to be the lessee of the State Government.*—(1) Where the right of the Metal Corporation under any mining lease granted, or deemed to have been granted to it by any State Government or any other person, vests in the Central Government under section 7, the Central Government shall, on and from the date of such vesting, be deemed to have become the lessee of such State Government or such other person, as the case may be, in relation to such mine, as if a mining lease in respect of such mine had been granted to the Central Government, and the period of such lease shall be the entire period for which such lease could have been granted by the State Government or such other person under the Mineral Concession Rules, and, thereupon all the rights under such mining lease, including surface, underground and other rights granted to the lessee shall be deemed to have been transferred to, and vested in, the Central Government..

(2) On the expiry of the term of any lease referred to in sub-section (1), such lease shall, if so desired by the Central Government, be renewed by other State Government or other person on the same terms and conditions on which such lease was held immediately before the appointed day by the Metal Corporation, for the maximum period for which such lease could be renewed under the Mineral Concession Rules.

9. *Power of Central Government to direct vesting of the undertaking of the Metal Corporation in a Government company.*—(1) Notwithstanding anything contained in section 7, the Central Government may, if it is satisfied that a Government company is willing to comply, or has

complied, with such terms and conditions as that Government may think fit to impose, direct, by an order in that the undertaking of the Metal Corporation and the right, title and interest of the Metal Corporation in relation to such undertaking shall, instead of continuing to next in the Central Government, vest in the Government company either on the date of publication of the direction or on such earlier or later date not being a date earlier than the appointed day as may be specified in the direction.

(2) Where the right, title and interest of the Metal Corporation in relation to its undertaking vest in a Government company under sub-section (1), the Government company shall, on and from the date of such vesting, be deemed to have become the lessee in relation to the Mines of which the Metal Corporation was the lessee as if a mining lease in respect of such mines had been granted to the Government company, and the period of such lease shall be the entire period for which such lease could have been granted under the Mineral Concession Rules; and all the rights and liabilities of the Central Government in relation to such mines shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of the Government company.

(3) The provisions of sub-section (2) of section 8 shall apply to a lease which vests in a Government company as they apply to a lease which has vested in the Central Government and any reference therein to the Central Government shall be construed as a reference to the Government company.

(4) Any reference hereafter in this Act to the Government company shall be construed as a reference to the Government company which is appointed as the Administrator under sub-section (1) of section 5, or, as the case may be, the Government company referred to in the direction made under sub-section (1).

CHAPTER IV

PAYMENT OF AMOUNTS

10. Payment of amount for deprivation of management.—For the deprivation of the Metal Corporation of the management of its undertaking, there shall be given, in cash, to the Metal Corporation by the Central Government, an amount, calculated at the rate of rupees eleven lakhs and thirty-nine thousand per annum, for the period commencing on the 22nd day of October, 1965, and ending on the appointed day.

11. Payment of amount for acquisition of the undertaking.—For the transfer to, and vesting in, the Central Government, under section 7, of the right, title and interest of the Metal Corporation in relation to its undertaking, there shall be given, in cash, by the Central Government to the Metal Corporation, an amount of rupees one crore and ninety-eight lakhs.

12. Time of payment.—(1) The amount determined under section 10, and the amount payable under section 11, shall be given by the Central Government to the Metal Corporation before the expiry of a period of three months from the appointed day (hereafter referred to as the specified period).

(2) The amount referred to in sub-section (1) shall, if not paid before the expiry of the specified period, carry simple interest at the rate of four per cent per

annum, for the period commencing on the date of expiry of the specified period and ending on the date on which payment of such amount is made by the Central Government to the Metal Corporation:

Provided that no interest shall run from the date on which the amount is tendered to the Metal Corporation if the amount so tendered is not accepted by it.

CHAPTER V

MANAGEMENT, ETC., OF THE UNDERTAKING OF THE METAL CORPORATION

13. Management, etc. of the undertaking.—The general superintendence, direction, control and management of the affairs and business of the undertaking of the Metal Corporation, the right, title and interest in relation to which have vested in the Central Government under section 7, shall vest in the Government company specified in the direction made under sub-section (1) of section 9, and, thereupon the Government company shall be entitled to exercise all such powers and do all such things as the Metal Corporation is authorised to exercise and do in relation to its undertakings.

CHAPTER VI

PROVISIONS RELATING TO EMPLOYEES OF THE METAL CORPORATION

14. Provisions relating to employees.—(1) Every officer or other employee of the Metal Corporation (except a director or any managerial personnel specified in section 197A of the Company Act, 1956 (1 of 1956), or any other person entitled to manage the whole or a substantial part of the business of the Metal Corporation under a special agreement) in the employment of the Metal Corporation immediately before the commencement of this Act shall, in so far as such employee is employed in connection with the affairs of the undertaking of the Metal Corporation, become, as from such commencement, an officer or other employee, as the case may be, of the Central Government or the Government company and shall hold office by the same tenure and at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, gratuity and other matters he would have held under the Metal Corporation if this Act had not been enacted and shall continue to do so until his employment under the Central Government or the Government company is duly terminated or until his remuneration, terms and conditions are duly altered by the Central Government or the Government company:

Provided that if the alteration so made is not acceptable to any such officer or other employee, his employment shall be terminated by the Central Government or the Government company on payment on an amount equivalent to—

(a) three months' remuneration, in the case of permanent employees, and

(b) one month's remuneration, in the case of other employees:

Provided further that nothing in this section shall apply to any officer or other employee who has, within thirty days next following the commencement of this Act, by notice in writing to the Central Government or the Government company, as the case may be, intimated his intention of not becoming an officer or

other employee of the Central Government or the Government company.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, the transfer of the services of any officer or other employee of the Metal Corporation to the Central Government or the Government company shall not entitle such officer or other employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authorities.

15. Provident and other funds.—(1) Where the Metal Corporation has established a provident, superannuation, welfare or other fund for the benefit of the persons employed in its undertaking, the monies relatable to the officers or other employees whose services have become transferred by or under this Act, to the Central Government or the Government company, shall, out of the monies standing, on the appointed day, to the credit of such provident, superannuation, welfare or other fund, stand transferred to, and vested in, the Central Government or the Government company, as the case may be.

(2) The monies which stand transferred, under sub-section (1), to the Central Government or the Government company, as the case may be shall be dealt with by that Government or Government company in such manner as may be prescribed.

CHAPTER VII

MISCELLANEOUS

16.—Act to have over-riding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contract in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

17. Contracts in bad faith may be cancelled or varied.—(1) If the Central Government is satisfied after such inquiry as it may think fit that any contract or agreement entered into at any time within three years immediately preceding the commencement of this Act between the Metal Corporation or the managing agents of Metal Corporation and any other person, in so far as such contract or agreement relates to the undertaking of the Metal Corporation, has been entered into in bad faith or is detrimental to the interests of the undertaking of the Metal Corporation, it may make an order cancelling (either unconditionally or subject to such conditions as it may think fit to impose) or varying the contract or agreement, and thereafter the contract or agreement shall have effect accordingly:

Provided that no such contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

(2) Any persons aggrieved by an order made under sub-section (1) may make an application to the High Court at Delhi for the variation or reversal of such order and thereupon such court may confirm, modify or reverse such order.

18. Protection of action taken in good faith.—(1) No suit, prosecution or other legal proceeding shall

lie against the Central Government or any officer of that Government or the Administrator or the Government company or any officer or other person authorised by that Government or Government company for any thing which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees or the Government company or any officer or other person authorised by that company for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

19. Delegation of powers.—(1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the power conferred by section 22, may also be exercised by such person or persons, as may be specified in the notification.

(2) Whenever any delegation of power is made under sub-section (1), the persons to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

20. Penalties.—Any person who,—

(a) having in his possession, custody or control any property forming part of any undertaking of the Metal Corporation, wrongfully withholds such property from the Central Government or Government company; or

(b) wrongfully obtains possession of, or retains any property forming part of the undertaking of the Metal Corporation or wilfully withholds or fails to furnish to the Central Government or the Government company or any person or body of persons specified by that Government or Government company, any document relating to such undertaking which may be in his possession, custody or control or fails to deliver to the Central Government or the Government company or any person or body of persons specified by that Government or Government company, any assets, books of accounts, registers or other documents in his possession, custody or control, relating to the undertaking of the Metal Corporation; or

(c) wrongfully removes or destroys any property forming part of any undertaking of the Metal Corporation or prefers any claim under this Act which he knows or has reasonable cause to believe to be false or grossly inaccurate,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

21. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of and was responsible to, the company for the conduct of the business of the company, as well as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves, that the offence was committed without his

knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) “company” means any body corporate and includes a firm or other association of individuals;
- (b) “director”, in relation to a firm, means a partner in the firm.

22. *Power to make rules.*—(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the manner in which the monies in any provident or other fund referred to in sub-section (2) of section 15 shall be dealt with;
- (b) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

23. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act receives the assent of the President.

24. *Abolition of Tribunal, etc.*—(1) On the commencement of this Act, the Tribunal constituted under sub-section (1) of section 11 of the Metal Corporation of India (Acquisition of Undertaking) Act, 1966 (36 of 1966), shall stand abolished and every proceeding pending before it, every order made by it and every appeal or application against any such order shall stand abated, and, on such abatement, the Central Government shall take charge of all records of proceedings, applications, memoranda, registers and other documents maintained by, or in connection with any proceeding before, the Tribunal.

(2) On the commencement of this Act,—

- (a) every suit, appeal or other proceeding of whatever

nature in relation to the affairs or business of the undertaking of the Metal Corporation instituted before such commencement, and pending on such commencement shall not abate, be discontinued or be, in any way, prejudicially affected by reason of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Metal Corporation and not against the Central Government or the Government company;

(b) every suit, appeal or other proceeding of whatever nature instituted after such commencement but before the appointed day, in relation to the affairs or business of the undertaking of the Metal Corporation, and pending on the appointed day, shall not abate, be discontinued or, in any way, be prejudicially affected by reason of anything contained in this Act, but such suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Central Government or the Government company.

(3) Anything done, any action taken or any contract entered into by the Central Government, Administrator or the Government company at any time during the period commencing on the 22nd day of October, 1965, and ending on the appointed day shall be deemed to have been done, taken or entered into by the Central Government or, as the case may be, the Government company in the due course of management of the undertaking of the Metal Corporation.

25. *Repeal of Ordinance 12 of 1976 and saving.*—(1) The Metal Corporation (Nationalisation and Miscellaneous Provisions) Ordinance, 1976 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

Assented to on 7-9-1976.

THE FIFTH SCHEDULE TO THE CONSTITUTION (AMENDMENT) ACT, 1976

(Act No. 101 of 1976)

AN.
ACT

further to amend the Fifth Schedule to the Constitution of India.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Fifth Schedule to the Constitution (Amendment) Act, 1976.

2. *Amendment of the Fifth Schedule.*—In the Fifth Schedule to the Constitution, in paragraph 6, in subparagraph (2),—

(1) after clause (a), the following clause shall be inserted, namely:—

“(aa) increase the area of any Scheduled Area in a State after consultation with the Governor of that State.”;

(2) after clause (c), the following clause shall be inserted, namely:—

“(d) rescind, in relation to any State or States, any

order or orders made under this paragraph, and in consultation with the Governor of the State concerned, take fresh orders redefining the areas which are to be Scheduled Areas;".

Assented to on 7-9-1976.

THE KERALA LEGISLATIVE ASSEMBLY (EXTENSION OF DURATION) SECOND AMENDMENT ACT, 1976

(ACT NO. 102 OF 1976)

AN

ACT

to provide for the further extension of the duration of the present Legislative Assembly of the State of Kerala.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Kerala Legislative Assembly (Extension of Duration) Second Amendment Act, 1976.

2. Further extension of duration of the Kerala Legislative Assembly and amendment of Act 33 of 1975.—The period of five years [being the period for which the Legislative Assembly of a State may, under clause (1) of article 172 of the Constitution, continue from the date appointed for its first meeting] in relation to the Legislative Assembly of the State of Kerala, which was extended for period of six months by the Kerala Legislative Assembly (Extension of Duration) Act, 1975 and for a further period of six months by the Kerala Legislative Assembly (Extension of Duration) Amendment Act, 1976 (46 of 1976), is hereby extended for a further period of six months and accordingly in section 2 of that Act, for the words "one year", wherever they occur, the words "eighteen months" shall be substituted.

Assented to on 7-9-1976.

THE CENTRAL SALES TAX (AMENDMENT) ACT, 1976

(ACT NO. 103 OF 1976)

AN

ACT

further to amend the Central Sales Tax Act, 1956.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Central Sales Tax (Amendment) Act, 1976.

2. Amendment of section 2.—In section 2 of the Central Sales Tax Act, 1956 (74 of 1956) (hereinafter referred to as the principal Act),—

(a) after clause (a), the following clauses shall be inserted, namely:—

(aa) "business" includes—

(i) any trade, commerce or manufacture, or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce, manufacture, adventure

or concern is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure or concern; and

(ii) any transaction in connection with, or in incidental or ancillary to, such trade, commerce, manufacture, adventure or concern;

(ab) "crossing the customs frontiers of India" means crossing the limits of the area of a customs station in which imported goods or export goods are ordinarily kept before clearance by customs authorities.

Explanation.—For the purposes of this clause, "customs station" and "customs authorities" shall have the same meanings as in the Customs Act, 1962 (52 of 1962);

(b) for clause (b), the following clause shall be substituted, namely:—

(b) "dealer" means any person who carries on (whether regularly or otherwise) the business of buying, selling, supplying or distributing goods, directly or indirectly, for cash, or for deferred payment, or for commission, remuneration or other valuable consideration, and includes—

(i) a local authority, a body corporate, a company, any co-operative society or other society, club, firm, Hindu undivided family or other association of persons which carries on such business;

(ii) a factor, broker, commission agent, *decredere* agent, or any other mercantile agent, by whatever name called, and whether of the same description as hereinbefore mentioned or not, who carries on the business of buying, selling, supplying or distributing goods belonging to any principal whether disclosed or not; and

(iii) an auctioneer who carries on the business of selling or auctioning goods belonging to any principal, whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal.

Explanation 1.—Every person who acts as an agent, in any State, of a dealer residing outside that State and buys, sells, supplies, or distributes, goods in the State or acts on behalf of such dealer as—

(i) a mercantile agent as defined in the Sale of Goods Act, 1930 (3 of 1930), or

(ii) an agent for handling of goods or documents of title relating to goods, or

(iii) an agent for the collection or the payment of the sale price of goods or as a guarantor for such collection or payment,

and every local branch or office in a State of a firm registered outside that State or a company or other body corporate, the principal office or headquarters whereof is outside that State, shall be deemed to be a dealer for the purposes of this Act.

Explanation 2.—A Government which, whether or not in the course of business, buys, sells, supplies or distributes, goods, directly or otherwise, for cash or for deferred payment or for commission, remuneration or other valuable consideration, shall accept in relation to any sale, supply or

distribution of surplus, un-serviceable or old stores or materials or waste products or obsolete or discarded machinery or parts or accessories thereof, be deemed to be a dealer for the purposes of this Act';.

3. Amendment of section 5.—In section 5 of the principal Act, after sub-section (2), the following sub-section shall be inserted, and shall be deemed to have been inserted with effect from the 1st day of April, 1976, namely:—

"(3) Notwithstanding anything contained in sub-section (1), the last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of the territory of India shall also be deemed to be in the course of such export, if such last sale or purchase took place after, and was for the purpose of complying with, the agreement or order for or in relation to such export.”.

4. Amendment of section 6.—In section 6 of the principal Act, in sub-section (1), the following proviso shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April, 1976, namely:—

"Provided that a dealer shall not be liable to pay tax under this Act on any sale of goods which, in accordance with the provisions of sub-section (3) of section 5, is a sale in the course of export of those goods out of the territory of India.”.

5. Amendment of section 7.—In section 7 of the principal Act for sub-section (3B), the following sub-section shall be substituted, namely:

"(3B) No dealer shall be required to furnish any security under sub-section (2A) or any security or additional security under sub-section (3A) unless he has given an opportunity of being heard.

(3BB) The amount of security which a dealer may be required to furnish under sub-section (2A) or sub-section (3A) or the aggregate of the amount of such security and the amount of additional security which he may be required to furnish under sub-section (3A), by the authority referred to therein, shall not exceed—

(a) in the case of a dealer other than a dealer who has made an application, or who has been registered in pursuance of an application, under sub-section (2), a sum equal to the tax payable under this Act, in accordance with the estimate of such authority, on the turnover of such dealer for the year in which such security or, as the case may be, additional security is required to be furnished; and

(b) in the case of a dealer who has made an application, or who has been registered in pursuance of an application, under sub-section (2), a sum equal to the tax leviable under this Act, in accordance with the estimate of such authority on the sales to such dealer in the course of inter-State trade or commerce in the year in which such security or, as the case may be, additional security is required to be furnished, had such dealer been not registered under this Act.”.

6. Amendment of section 9.—In section 9 of the principal Act,—

(a) in sub-section (1), for the proviso, the following

proviso shall be substituted, namely:—

"Provided that, in the case of a sale of goods during their movement from one State to another, being a sale subsequent to the first sale in respect of the same goods and being also a sale which does not fall within sub-section (2) of section 6, the tax shall be levied and collected—

(a) where such subsequent sale has been effected by a registered dealer, in the State from which the registered dealer obtained or, as the case may be, could have obtained, the form prescribed for the purposes of clause (a) of sub-section (4) of section 8 in connection with the purchase of such goods, and

(b) where such subsequent sale has been effected by an unregistered dealer, in the State from which such subsequent sale has been effected.”;

(b) in sub-section (2), before the words "compounding of offences", the words "charging or payment of interest", shall be inserted and shall be deemed always to have been inserted;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) All the provisions relating to offences and penalties (including provisions relating to penalties in lieu of prosecution for an offence or in addition to the penalties or punishment for an offence but excluding the provisions relating to matters provided for in sections 10 and 10A) of the general sales tax law of each State shall, with necessary modifications, apply in relation to the assessment, re-assessment, collection and the enforcement of payment of any tax required to be collected under this Act in such State or in relation to any process connected with such assessment, re-assessment, collection or enforcement of payment as if the tax under this Act were a tax under such sales tax law.”.

7. Amendment of section 14.—In section 14 of the principal Act,—

(a) clause (i) shall be re-numbered as clause (ia) and before clause (ia) as so re-numbered, the following clause shall be inserted, namely:—

"(i) cereals, that is to say,—

(i) paddy (*Oryza sativa L.*);

(ii) rice (*Oryza sativa L.*);

(iii) wheat (*Triticum vulgare*, *T. compactum*, *T. sphaerococcum*, *T. durum*, *T. aestivum L.*, *T. dicoccum*);

(iv) Jowar or milo (*Sorghum vulgare Pers.*);

(v) bajra (*Pennisetum typhoideum L.*);

(vi) Maize (*Zea mays L.*);

(vii) ragi (*Elesine coracana Gaertn.*);

(viii) kodon (*Paspalum scrobiculatum L.*);

(ix) kutki (*Panicum miliare L.*);

(x) barley (*Hordeum vulgare L.*);”;

(b) after clause (iib), the following clause shall be inserted, namely:—

"(iic) crude oil, that is to say, crude petroleum oils and crude oils obtained from bituminous minerals (such as shale, calcareous rock, sand), whatever their composition, whether obtained from normal or condensation oil-deposits or by the destructive distillation of bituminous minerals and whether or not subjected to all or any of the following processes:—

(1) decantation;

- (2) de-salting;
 - (3) dehydration;
 - (4) stabilisation in order to normalise the vapour pressure;
 - (5) elimination of very light fractions with a view to returning them to the oil-deposits in order to improve the drainage and maintain the pressure;
 - (6) the addition of only those hydrocarbons previously recovered by physical methods during the course of the above-mentioned processes;
 - (7) any other minor process (including addition of pour point depressants or flow improvers) which does not change the essential character of the substance;”;
- (c) after clause (vi) the following clause shall be inserted, namely:—

“(via) pulses, that is to say,—

- (i) gram or gulab gram (*Cicerarietinum L.*);
- (ii) tur or arhar (*Cajanus cajan*);
- (iii) moong or green gram (*Phaseolus aureus*);
- (iv) masur or lentil (*Lens esculenta Moench, Lens culinaris Medica.*);
- (v) urad or black gram (*Phasolus mungo*);
- (vi) moth (*Phaseolus aconitifolius Jacq.*);
- (vii) lak or khesari (*Lathyrus stivus L.*)”.

8. Amendment of section 15.—In section 15 of the principal Act, after clause (b), the following clauses shall be inserted, namely:—

- “(c) where a tax has been levied under that law in respect of the sale or purchase inside the State of any paddy referred to in sub-clause (i) of clause (i) of section 14, the tax leviable on rice procured out of such paddy shall be reduced by the amount of tax levied on such paddy;
- (d) each of the pulses referred to in clause (via) of section 14, whether whole or separated, and whether with or without husk, shall be treated as a single commodity for the purposes of levy of tax under that law.”.

9. Validation.—(1) The provisions of section 9 of the principal Act shall have effect, and shall be deemed always to have had effect, in relation to the period commencing on the 5th day of January, 1957, and ending with the date immediately preceding the date of commencement of this Act as if that section also provided—

- (a) that all the provisions relating to penalties (including provisions relating to penalties in lieu of prosecution for an offence or in addition to the penalties or punishment on conviction for an offence but excluding the provisions relating to matters provided for in sections 10 and 10A of the principal Act and the provisions relating to offences) of the general sales tax law of each State shall, with necessary modifications, apply in relation to—
 - (i) the assessment, re-assessment, collection and enforcement of payment of any tax required to be collected under the principal Act in such State; and
 - (ii) any process connected with such assessment, re-assessment, collection or enforcement of payment; and
- (b) that for the purpose of the application of the provisions of such law, the tax under the principal

Act shall be deemed to be tax under such law.

(2) Notwithstanding anything contained in any judgment, decree or order of any court or tribunal or other authority, all penalties under the general sales tax law of any State imposed or purporting to have been imposed in pursuance of the provisions of section 9 of the principal Act, and all proceedings, acts or things taken or done for the purpose of, or in relation to, the imposition or collection of such penalties, before the commencement of this Act shall, for all purposes, be deemed to be and to have always been imposed, taken or done as validly and effectively as if the provisions of sub-section (1) had been in force when such penalties were imposed or proceedings or acts or things were taken or done and, accordingly,—

- (a) no suit or other proceedings shall be maintained or continued in or before any court or any tribunal or other authority for the refund of any amount received or realised by way of such penalty;
- (b) no court, tribunal or other authority shall enforce and decree or order directing the refund of any amount received or realised by way of such penalty;
- (c) where any amount which had been received or realised by way of such penalty has been refunded before the commencement of this Act and such refund would not have been allowed if the provisions of sub-section (1) had been in force on the date on which the order for such refund was passed, the amount so refunded may be recovered as an arrear of tax under the principal Act;
- (d) any proceeding, act or thing which could have been validly taken continued or done for the imposition of such penalty at any time before the commencement of this Act if the provisions of sub-section (1) had then been in force but which had not been taken, continued or done, may after such commencement be taken, continued or done.

(3) Nothing in sub-section (2) shall be construed as preventing any person,—

- (a) from questioning the imposition or collection of any penalty or any proceedings, act or thing in connection therewith; or
- (b) from claiming any refund,

in accordance with the provisions of the principal Act read with sub-section (1).

Explanation.—In computing the period of limitation, if any, for questioning as provided in clause (a) or for claiming as provided in clause (b), the period commencing on the 27th day of February, 1975 and ending with the date of commencement of this Act shall be excluded.

(4) Any interest charged or paid or purporting to have been charged or paid, and any proceeding, act or thing taken or done or purporting to have been taken or done for charging or paying any interest, under the provisions of the general sales tax law of any State read with section 9 of the principal Act, before the commencement of this Act, shall be deemed to be and to have always been as validly charged, paid, taken or done as if the amendment made by clause (b) of section 6 had been in force when such interest was charged or paid or when such proceeding, act or thing was taken or done.

Explanation.—For the purposes of this section, “general sales tax law” shall have the same meaning as in the principal Act.

Simla-171002, the 4th January, 1977

No. LLR-E (9) 12/76.—The following Acts recently passed by Parliament which have already been published in the Gazette of India, Extraordinary, Part II, Section 1, are hereby republished in the Himachal Pradesh Government Rajpatra for the information of general public:—

1. The House of the People (Extension of Duration) Amendment Act, 1976 (109 of 1976).
2. The Electricity (Supply) Amendment Act, 1976 (115 of 1976).

M. C. PADAM,
Under Secretary, (Judicial).

Assented to on 24-11-1976.

THE HOUSE OF THE PEPOLE (EXTENSION OF DURATION) AMENDMENT ACT, 1976

(ACT No. 109 OF 1976)

AN
ACT

to provide for the further extension of the duration of the present House of the People.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the House of the People (Extension of Duration) Amendment Act, 1976.

2. *Further extension of duration of the present House of the People.*—The duration of the present House of the People which was extended for a period of one year by the House of the People (Extension of Duration) Act, 1976 (30 of 1976), is hereby extended for a further period of one year and accordingly, in section 2 of that Act,—

- (1) in the opening paragraph, for the words “one year”, the words “two years” shall be substituted;
- (2) for the proviso, the following proviso shall be substituted, namely:—

“Provided that if both or either of the said proclamations cease or ceases to operate before the expiration of the said period of two years, the present House of the People shall, unless previously dissolved under clause (2) of Article 85 of the Constitution, continue until six months after the cessation of operation of the said Proclamations or Proclamation but not beyond the said period of two years.”

Assented to on 30-11-1976.

THE ELECTRICITY (SUPPLY) AMENDMENT ACT, 1976

(ACT No. 115 OF 1976)

AN
ACT

further to amend the Electricity (Supply) Act, 1948.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Electricity (Supply) Amendment Act, 1976.

(2) It shall be deemed to have come into force on the 8th Day of October, 1976.

2. *Amendment of section 1.*—In section 1 of the Electricity (Supply) Act, 1948 (54 of 1948), (hereinafter referred to as the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

(3) This section and sections 2, 3, 4, 4A, 4B, 4C, 15A, 18A, 26A, 28 to 34 (both inclusive), sub-section (2) of section 39, section 42, sub-section (3) of section 43 and sections 57, 57A, 57B, 58, 75A, 76, 77, 77A, 77B, 77C, 82 and 83 and the provisions of the Sixth and Seventh Schedules shall come into force at once.”.

3. *Amendment of section 2.*—In section 2 of the principal Act,—

(a) after clause (4), the following clause shall be inserted, namely:—

(4A) “Generating Company” means a company formed—

(a) either by the Central Government or by any State Government ; or

(b) jointly by the Central Government and one or more State Governments or by two or more State Governments, and registered under the Companies Act, 1956 (1 of 1956);

(b) in clause (5),—

(i) after the words “including any building and plant”, the brackets and words “(with step-up transformer, switchgear, cables or other appurtenant equipment, if any)” shall be inserted ;

(ii) the words “for transforming, converting or distributing electricity ” shall be omitted;

(c) in clause (6), for the words and figures “but” the provisions of section 26 of this Act notwithstanding, does not include the Board” the words, figures and letter “but, the provisions of section 26 or 26A of this Act, notwithstanding, does not include the Board or a Generating Company” shall be substituted;

(d) after clause (8), the following clause shall be inserted, namely:—

(8A) “power system” means a system under the control of the Government or any Board or Generating Company or other agency and having one or more—

(i) generating stations; or

(ii) main transmission line and sub-stations; or

(iii) generating stations and main transmission lines and sub-stations;

(e) in clause (9), for the words and figures “made under section 78”, the words “made under this Act” shall be substituted;

(f) after clause (11), the following clauses shall be inserted, namely:—

(11A) "sub-station" means a station for transforming or converting electricity for the transmission or distribution thereof and includes transformers, convertors, switchgear, capacitors, synchronous condensors, structures, cables and other appurtenant equipments and any buildings used for that purpose and the site thereof, a site intended to be used for any such purpose and any buildings used for housing the staff of the sub-station;

(11B) "tie-line" means a line for the transfer of electricity between two power systems together with switchgear and other works necessary to, and used for, the control of such line;" ;

(g) in clause (13), after the words "the Board", the words "or a Generating Company" shall be inserted.

4. *Amendment of section 3.*—In section 3 of the principal Act,—

(1) in sub-section (1),—

(a) in clause (i), for the words "and particularly to co-ordinate the activities of the planning agencies", the words "formulate short term and perspective plans for power development and co-ordinate the activities of the planning agencies" shall be substituted;

(b) for clause (iii), the following clause shall be substituted, namely:—

"(iii) collect and record the data concerning the generation, distribution and utilisation of power and carry out studies relating to cost, efficiency, losses, benefits and such like matters;" ;

(c) after clause (iv), the following clauses shall be inserted, namely:—

"(v) advise any State Government, Board, Generating Company or other agency engaged in the generation or supply of electricity on such matters as will enable such Government, Board, Generating Company or agency to operate and maintain the power system, under its ownership or control, in an improved manner and, where necessary, in co-ordination with any other Government, Board, Generating Company or other agency owning or having the control of another power system;

(vi) promote and assist in the timely completion of schemes sanctioned under Chapter V;

(vii) make arrangement for advancing the skill of persons in the generation and supply of electricity;

(viii) carry out, or make arrangements for, any investigation for the purpose of generating or transmitting electricity;

(ix) promote research in matters affecting the generation, transmission and supply of electricity;

(x) advise the Central Government on any matter on which its advice is sought or make recommendation to that Government on any matter, if, in the opinion of the Authority, the recommendation would help in improving the generation, distribution and utilisation of electricity; and

(xi) discharge such other functions as may be entrusted to it by or under any other law;" ;

(2) in sub-section (2), for the words "not more than six months", the words "not more than fourteen members of whom not more than eight shall be full-time members" shall be substituted;

(3) after sub-section (2), the following sub-section shall be inserted, namely :—

"(2A) A full-time member shall be a person who has experience of, and has shown capacity in,—

(a) design, construction operation and maintenance of generating stations ;

(b) transmission and supply of electricity ;

(c) applied research in the field of electricity ;

(d) applied economics ; or

(e) industrial, commercial or financial matters.";

(4) in sub-section (3), for the words "one of the members", the words "one of the full-time members" shall be substituted ;

(5) after sub-section (4), the following sub-section shall be inserted, namely:—

"(4A) The chairman of the Authority and the other full-time members shall receive such salaries and allowances as may be determined by the Central Government and the other members shall receive such allowances fees for attending the meetings of the Authority, as the Central Government may prescribe.

(4B) The other terms conditions of service of the members of the Authority [including, subject to the provisions of sub-section (4), their terms of office] shall be such as the Central Government may prescribe.";

(6) in sub-section (5),—

(i) for the words "be directly or indirectly concerned or interested in or have any share or interest", the words "have any share or interest for his own benefits, whether in his name or otherwise," shall be substituted;

(ii) for the words "fuel, solid or liquid, for the generation of electricity", the words "fuel, in whatever form, for the generation of electricity or in the manufacture of electrical equipment" shall be substituted ;

(7) for sub-section (7), the following sub-sections shall be substituted, namely :—

"(7) The Chairman of the Authority may, by order, appoint any two or more members of the Authority to act on behalf of the Authority in relation to any matter referred to in clause (ii) of sub-section (1).

(8) No act or proceeding of the Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of the Authority.”.

5. Amendment of section 4.—In section 4 of the principal Act,—

- (a) for the words “State Electricity Board”, the words “State Electricity Board, Generating Company,” shall be substituted;
- (b) after the words “or his own use”, the words “or consuming electricity” shall be inserted;
- (c) for the words “and returns”, the words, “returns or other information” shall be substituted.

6. Insertion of new sections 4A, 4B and 4C.—After section 4 of the principal Act, the following sections shall be inserted, namely:—

“4A. Directions by Central Government to the Authority.—(1) In the discharge of its functions, the Authority shall be guided by such directions in matters of policy involving public interest as the Central Government may give to it in writing.

(2) If any question arises as to whether any such direction relates to a matter of policy involving public interest, the decision of the Central Government thereon shall be final.

4B. Power of Central Government to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely—

- (a) the functions and duties of the Authority and the manner in which such functions and duties shall be exercised and performed, under sub-section (1) of section 3;
- (b) the terms and conditions of service of the Chairman and other members of the Authority (including the allowances and fees payable to members, but not including the salaries and allowances payable to the Chairman and other full-time members, of the Authority under sub-section (4A) and sub-section (4B) of section 3);
- (c) any other matter which is required to be, or may be, prescribed by the Central Government.
- (3) Every rule made by the Central Government under this Chapter shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

4C. Power of Authority to make regulations.—The

Authority may make regulations, not inconsistent with the provisions of this Act and the rules made by the Central Government thereunder, to provide for all or any of the following matters, namely,—

- (a) summoning and holding of meetings of the Authority, the times and places at which such meetings shall be held, the conduct of business thereat and the number of members required to constitute a quorum;
- (b) any other matter arising out of the functions of the Authority under this Act for which it is necessary or expedient to make regulations.”.

7. Substitution of new heading for heading under Chapter III.—In Chapter III of the principal Act, for the heading “STATE ELECTRICITY BOARD”, the following heading shall be substituted, namely:—

“STATE ELECTRICITY BOARDS, GENERATING COMPANIES, STATE ELECTRICITY CONSULTATIVE COUNCILS AND LOCAL ADVISORY COMMITTEES”.

8. Insertion of new section 15A.—After section 15 of the principal Act, the following section shall be inserted, namely:—

“15A. Formation, objects, jurisdiction, etc., of Generating Companies.—(1) The Central Government or any State Government, or the Central Government and one or more State Governments, or two or more State Governments, jointly may form a Generating Company with such name as may be specified in the Memorandum of association of the company.

(2) The main objects of a Generating Company shall be—

(i) establishing, operating and maintaining generating stations and tie-lines, sub-stations and main transmission lines connected therewith;

(ii) operating and maintaining such generating stations, tie-lines, sub-stations and main transmission lines as are assigned to it by the Government or Governments forming the Generating Company (hereinafter referred to as the promoting government).

(3) The Generating Company shall carry on its activities within such areas as the promoting government or promoting governments may, from time to time, specify in this behalf.

(4) Such number of the members of the Board of directors of a Generating Company as the promoting government thinks fit or, where there are more promoting governments than one, as may be agreed upon by such promoting governments, may be appointed as full-time members thereof.

(5) A full-time member of the Board of directors of a Generating Company shall be a person who has shown capacity in,—

- (a) design, construction, operation and maintenance of generating stations;
- (b) transmission and supply of electricity;
- (c) applied economics;
- (d) organising workers;
- (e) industrial, commercial or financial matters; or
- (f) administration in Government Department or other establishment.

(6) The provisions of section 9 shall, so far as may be, apply to every member of the Board of directors of a Generating Company as they apply to a member of the Board.

(7) A company within the meaning of section 3 of the Companies Act 1956 (1 of 1956), formed before the commencement of the Electricity (Supply) Amendment Act, 1976, by the Central Government or any State Government or the Central Government and one or more State Governments, or two or more State Governments, jointly and functioning on such commencement, having its main objects all or any of the matters specified in sub-section (2), shall be deemed for all purposes, to be a Generating Company under this Act.”.

9. Amendment of section 16.—In section 16 of the principal Act,—

(1) sub-section (2), for the words “the members of the Board”, the words “the members of the Board and, if there are any Generating Company or Generating Companies operating in the State, one representative of the Generating Company or each of the Generating Companies, to be nominated by the Generating Company concerned,” shall be substituted;

(2) in sub-section (5),—

(a) in clause (i) and clause (ii), for the words “the Board”, the words “the Board and the Generating Company or Generating Companies, if any, operating in the State” shall be substituted;

(b) in clause (iii), for the words “the Board”, the words “the Board or the Generating Company or Generating Companies, if any, operating in the State” shall be substituted.

10. Amendment of heading under Chapter IV.—In Chapter IV of the principal Act, in the heading, for words “State Electricity Boards”, the words “State Electricity Boards and Generating Companies” shall be substituted.

11. Substitution of new sections for section 18.—For section 18 of the principal Act, the following sections shall be substituted, namely:—

“18. General duties of the Board.—Subject to the provisions of this Act, the Board shall be charged with the following general duties, namely:—

(a) to arrange, in co-ordination with the Generating Company or Generating Companies, if any, operating in the State, for the supply of electricity that may be required within the State and for the transmission and distribution of the same, in the most efficient and economical manner with particular reference to those areas which are not for the time being supplied or adequately supplied with electricity;

(b) to supply electricity as soon as practicable to a licensee or other person requiring such supply if the Board is competent under this Act so to do;

(c) to exercise such control in relation to the generation, distribution and utilisation of electricity within the State as is provided for by or under this Act.

(d) to collect data on the demand for, and the use of, electricity and to formulate perspective plans in co-ordination with the Generating Company or Generating Companies, if any, operating in the State, for the generation, transmission and supply of electricity within the State;

(e) to prepare and carry out schemes for transmission,

distribution and generally for promoting the use of electricity within the State; and

(f) to operate the generating stations under its control in co-ordination with the Generating Company or Generating Companies, if any, operating in the State and with the Government or any other Board or agency having control over a power system.

18A. Duties of Generating Company.—(1) Subject to the provisions of this Act, a Generating Company shall be charged with the following duties, namely:—

(a) to establish, operate and maintain such generating stations and tie-lines, sub-stations and main transmission lines connected therewith, as may be required to be established by the promoting government or promoting governments in relation to the Generating Company;

(b) to operate and maintain in the most efficient and economical manner the generating stations, tie-lines, sub-stations and main transmission lines, assigned to it by the promoting government or promoting governments in co-ordination with the Board or Boards, as the case may be, and the Government or agency having control over the power system, if any, connected therewith;

(c) to carry out, subject to the provisions of section 21, detailed investigations and prepare schemes, in co-ordination with the Board or Boards, as the case may be, for establishing generating stations and tie-lines, sub-stations and transmission lines connected therewith, in such manner as may be specified by the Authority.

(2) Without prejudice to the generality of its duties under section 18, the Board shall, until a Generating Company begins to operate in any State, perform the duties of a Generating Company under this section in that State.”.

12. Substitution of new section for section 20A.—For section 20A of the principal Act, the following section shall be substituted, namely:—

“20A. Leasing out, etc., of generating stations.—The State Government may, in respect of any generating station owned by it (including transmission lines and other works connected therewith) make arrangements with the Board or a Generating Company for its operation and maintenance on such terms and conditions as may be agreed upon between the State Government and the Board or the Generating Company, as the case may be.”.

13. Amendment of section 21.—In section 21 of the principal Act, in the opening paragraph,—

(a) for the words “The Board may”, the words “The Board or a Generating Company may” shall be substituted;

(b) for the words “in the opinion of the Board”, the words “in the opinion of the Board or the Generating Company as the case may be,” shall be substituted;

(c) the words “and in such manner as the Authority may, from time to time, specify” shall be inserted at the end.

14. *Insertion of new section 26A.*—After section 26 of the principal Act, the following section shall be inserted, namely.—

"26A. Applicability of the provisions of Act 9 of 1910 to Generating Company.—(1) Notwithstanding anything contained in sub-section (2), nothing in the Indian Electricity Act, 1910 (9 of 1910), shall be deemed to require a Generating Company to take out a licence under that Act, or to obtain sanction of the State Government for the purpose of carrying on any of its activities.

(2) Subject to the provisions of this Act, sections 12 to 19 (both inclusive) of the Indian Electricity Act, 1910 (9 of 1910) and clauses XIV to XVII (both inclusive) of the Schedule thereto, shall, as far as may be, apply in relation to a Generating Company as they apply in relation to a licensee under that Act (hereafter in this section referred to as the licensee) and in particular a Generating Company may, in connection with the performance of its duties, exercise—

(a) all or any of the powers conferred on a licensee by sub-section (1) of section 12 of the Indian Electricity Act, 1910 (9 of 1910), as if—

- (i) the reference therein to licensee were a reference to the Generating Company;
- (ii) the reference to the terms and conditions of licence were a reference to the provisions of this Act and to the articles of association of the Generating Company; and
- (iii) the reference to the area of supply were a reference to the area specified under sub-section (3) of section 15A in relation to the Generating Company;

(b) all or any of the powers conferred on a licensee by sub-section (1) of section 14 of the Indian Electricity Act, 1910 (9 of 1910), as if—

- (i) the references therein to licensee were references to the Generating Company; and
- (ii) the Generating Company had the powers of a licensee under the said Act.

(3) The provisions of section 30 of the Indian Electricity Act, 1910 (9 of 1910), shall not apply to the transmission or use of energy by a Generating Company.

(4) For the removal of doubts, it is hereby declared that sections 31 of to 34 (both inclusive) of the Indian Electricity Act, 1910 (9 of 1910), shall apply to a Generating Company.”.

15. Amendment of section 27.—In section 27 of the principal Act, for the words “The Board”, the words “The Board or a Generating Company” shall be substituted.

16. Substitution of new heading for heading under Chapter V.—In Chapter V of the principal Act, for the heading, the following heading shall be substituted, namely:—

“THE WORKS AND TRADING PROCEDURE OF THE BOARD AND THE GENERATING COMPANY”.

17. Substitution of new sections for sections 28 and 29.—For sections 28 and 29 of the principal Act, the following sections shall be substituted, namely:—

“28. Preparation and sanctioning of schemes.—(1) For the efficient performance of its duties under this Act, the Board or a Generating Company, as the

case may be, may prepare one or more schemes, relating to the establishment or acquisition of generating stations, tie-lines, sub-stations or transmission lines as are referred to in clause (e) of section 18 or clause (c) of sub-section (1) of section 18A, as the case may be.

(2) The Board or, as the case may be, the Generating Company, which has prepared a scheme, may sanction such scheme either generally or in respect of any part of the area specified in the scheme and where a scheme has been sanctioned in respect of any part of the area, such scheme may subsequently be sanctioned in respect of any other part of that area:

Provided that where the scheme is of the nature referred to in sub-section (1) of section 29, the scheme shall not be sanctioned (generally or for part of an area) by the Board or the Generating Company except with the previous concurrence of the Authority.

(3) Every scheme sanctioned under this section shall be published in the Official Gazette and in such local newspapers as the Board, or as the case may be, the Generating Company may consider necessary;

29. Submission of schemes for concurrence of Authority, etc.—(1) Every scheme estimated to involve a capital expenditure exceeding one crore of rupees shall, as so on as may be after its preparation, be submitted to the Authority for its concurrence.

(2) Before finalisation of any scheme of the nature referred to in sub-section (1) and the submission thereof to the Authority for concurrence, the Board or, as the case may be, the Generating Company shall cause such scheme, which among other things shall contain the estimates of the capital expenditure involved, salient features thereof and the benefits that may accrue therefrom, to be published in the Official Gazette of the State concerned and in such local newspapers as the Board or the Generating Company may consider necessary along with a notice of the date, not being less than two months after the date of such publication, before which licensees and other persons interested may make representations on such scheme.

(3) The Board or, as the case may be, the Generating Company may, after considering the representations, if any, that may have been received by it and after making such inquiries as it thinks fit, modify the scheme and the scheme so finally prepared with or without modifications shall be submitted by it to the Authority along with the representations.

(4) A copy of the scheme finally prepared by the Board or, as the case may be, the Generating Company under sub-section (3) shall be forwarded to the State Government or State Governments concerned:

Provided that where the scheme has been prepared by a Generating Company in relation to which the Central Government is the promoting government or one of the promoting governments, a copy of the scheme finally prepared shall be forwarded also to the Central Government.

(5) The Authority may give such directions as to the form and contents of a scheme and the procedure to be followed in, and any other matter relating to, the preparation, submission and approval of such scheme, as it may think fit.

(6) In respect of any scheme submitted to the Authority for its concurrence under sub-section (1), the Board or, as the case may be, the Generating Company shall, if required by the Authority so to do, supply any information incidental or supplementary to the scheme within such period, being not less than one month, as may be specified by the Authority.”.

18. *Amendment of section 30.*—In section 30 of the principal Act,—

(a) for the opening paragraph, the following shall be substituted, namely:—

“The Authority shall, before concurring in any scheme submitted to it under sub-section (1) of section 29, have particular regard to, whether or not in its opinion—”;

(b) in clause (a),—

(i) the words “by the Board” shall be omitted,
 (ii) for the words “shall satisfy itself” the words
 “shall satisfy itself, after consultation with the State Government, the Central Government, or such other agencies as it may deem appropriate,” shall be substituted;

(c) after clause (e), the following clauses shall be inserted, namely:—

“(f) in the case of a scheme in respect of thermal power generation, the location of the generating station is best suited to the region, taking into account the optimum utilisation of fuel resources, the distance of load centre, transportation facilities, water availability and environmental considerations;

(g) the scheme conforms to any other technical, economic or other criteria laid down by the Authority in accordance with the national power policy evolved by it in pursuance of the provisions contained in clause (i) of sub-section (1) of section 3.”.

19. *Substitution of new sections for sections 31, 32 and 33.*—For sections 31, 32 and 33 of the principal Act, the following sections shall be substituted, namely:—

“31. *Concurrence of Authority to scheme submitted to it by Board or Generating Company.*—(1) Where a scheme is submitted to the Authority under sub-section (1) of section 29, the Authority may, having regard to the matters referred to in section 30, either concur in the scheme without modification or require the Board or, as the case may be, the Generating Company to modify the scheme in such manner as the Authority specifies in the requisition so as to ensure that the scheme conforms to the national power policy evolved by the Authority in pursuance of the provisions contained in clause (i) of sub-section (1) of section 3 and in either case the Authority shall also communicate its decision to the State Government or State Governments concerned:

Provided that where the scheme was submitted for concurrence by a Generating Company in relation to which the Central Government is the promoting government or one of the promoting governments, the decision shall be communicated also to that Government.

(2) Where under sub-section (1) the Authority requires that a scheme may be modified, the Board or, as the case may be, the Generating Company may prepare a revised scheme in accordance with

such requisition and submit it to the Authority for concurrence and thereupon the Authority shall, if satisfied that the revised scheme complies with the requisition, concur in the same.

32. *Power to alter or extend schemes.*—The Board or, as the case may be, the Generating Company may, from time to time, alter or extend a scheme by a supplementary scheme prepared and sanctioned in the manner hereinbefore provided:

Provided that any alterations or extensions of a scheme which are, in the opinion of the Board or, as the case may be, the Generating Company, minor in character may be made without preparing a supplementary scheme:

Provided further that where any alteration or extension of the nature referred to in the first proviso is made in respect of a scheme concurred in by the Authority, details of such alteration or extension shall be intimated to the Authority as soon as may be after such alteration or extension is made.

33. *Provisions applicable to scheme prepared by State Government.*—The provisions of sections 28 to 32 (both inclusive) shall, so far as may be, apply also in relation to a scheme prepared by a State Government for the generation, transmission or distribution of electricity.”.

20. *Amendment of section 34.*—Section 34 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) notwithstanding anything contained in this Act or any scheme made thereunder, no generating station owned by a Generating Company shall be designated as a controlled station.”.

21. *Omission of Section 38.*—Section 38 of the principal Act shall be omitted.

22. *Amendment of section 39.*—Section 39 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1), as so re-numbered the following sub-section shall be inserted namely:—

“(2) Where a Generating Company has been established having its activities wholly or partly in a State, the State Government may direct the Board to make over any generating station established or acquired by the Board to the Generating Company subject to such terms and conditions as may be specified in the direction and the Board shall comply with such direction:

Provided that where the Central Government is the promoting government or one of the promoting governments in relation to the Generating Company, no direction shall be made by any State Government under this sub-section without the concurrence of the Central Government.”.

23. *Amendment of section 41.*—In section 41 of the principal Act,—

(a) in sub-section (1), for the words “the Board”, wherever they occur, the words “the Board or a Generating Company” shall be substituted:

(b) in sub-section (2), for the words “The Board may”, the words “The Board or a Generating Company may” shall be substituted.

24. *Amendment of section 2.*—Section 42 of the principal Act shall be re-numbered as sub-section (1)

thereof and after sub-section (1), as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) A Generating Company may, for the placing of wires, poles, wall-brackets, stays, apparatus and appliances for the transmission of electricity, or for the transmission of telegraphic or telephonic communications necessary for the proper co-ordination of the works of the Generating Company, exercise all or any of the powers which the Board may exercise under sub-section (1) and subject to the conditions referred to therein.”.

25. Amendment of section 43.—In section 43 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) A Generating Company may, on such terms as may be agreed upon, enter into arrangements for the sale of electricity generated by it—

- (a) with the Board constituted for the State or any of the States wherein such Generating Company is operating; or
- (b) with any other person with the consent of the Government or Governments which, in relation to that Generating Company, is the promoting government or promoting governments.”.

26. Amendment of section 44.—In section 44 of the principal Act,—

- (a) in sub-section (1), in the opening paragraph, after the words “created by a Central Act”, the words “or any Generating Company” shall be inserted;
- (b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The Board shall, before giving consent under sub-section (1), to the establishment or acquisition of a new generating station or to the extension or replacement of any major unit of plant or works, consult the Authority, in cases where the capacity of the new generating station or, as the case may be, the additional capacity proposed to be created by the extension or replacement exceeds twenty-five thousand kilowatts.”.

27. Amendment of section 72.—In section 72 of the principal Act,—

- (a) for the words “the Board”, the words “the Board or a Generating Company” shall be substituted;
- (b) for the words “or that the Board is unable so to develop”, the words “or the Generating Company so to develop” shall be substituted.

28. Amendment of section 73.—In section 73 of the principal Act, for the words “the Board shall co-ordinate its activities”, the words “the Board and the Generating Company shall co-ordinate their activities” shall be substituted.

29. Amendment of section 74.—In section 74 of the principal Act,—

- (a) for the words “servant of the Board”, the words “servant of the Board or of a Generating Company” shall be substituted;
- (b) for the words “authorised by the Board”, the words “authorised by the Board or by the Generating Company, as the case may be,” shall be substituted;
- (c) for the words “duties by the Board”, the words “duties by the Board or by the Generating Company, as the case may be,” shall be substituted.

30. Amendment of section 75.—In section 75 of the principal Act, in sub-section (3),—

- (a) for the words “or person”, the words “or person or agency” shall be substituted;
- (b) the following proviso shall be inserted at the end, namely:—

“Provided that nothing in this sub-section shall be deemed to empower the Board to require a Generating Company to furnish it with any information or accounts.”.

31. Insertion of new section 75A.—After section 75 of the principal Act, the following section shall be inserted, namely:—

75A. Annual reports and accounts of Generating Company.—(1) A Generating Company shall,

before the expiry of the 31st December of each year, submit to the promoting government, or where there are more than one promoting government to all such promoting governments, a report giving an account of the activities, if any, which are likely to be undertaken by such Generating Company in the ensuing year together with a statement of the estimated capital and revenue receipts and expenditure for that year in such form as may be specified by the promoting government or, as the case may be, the promoting governments.

(2) A Generating Company shall, as soon as may be after the end of each year, prepare a report giving an account of its activities during the previous year and shall, within six months from the date of closure of the year, forward to the promoting government, or where there are more than one promoting government, to all such promoting governments, the report together with a statement of accounts, in such form and containing such particulars as may be specified by the promoting government or the promoting governments, as the case may be, a copy of the balance-sheet and profit and loss account and the auditor’s report, in relation to the accounts of the year aforesaid.

(3) For the purpose of preparing the statement of accounts referred to in sub-section (2), the depreciation to be provided every year shall be calculated in accordance with the same method as laid down by or under this Act for calculating depreciation in relation to the Board.

(4) The provisions of sub-sections (1) and (2) shall be in addition to and not in derogation of the provisions contained in the Companies Act, 1956 (1 of 1956), in relation to reports, statement of accounts and other documents required to be prepared or kept or submitted by a company within the meaning of section 3 of that Act.”.

32. Amendment of Fifth Schedule.—In the Fifth Schedule to the principal Act,—

- (a) in the heading, for the words “BY BOARD”, the words “BY BOARD OR GENERATING COMPANY” shall be substituted;
- (b) in paragraph I and paragraph II, for the words “the Board”, wherever they occur, the words “the Board or the Generating Company” shall be substituted.

33. Amendment of Sixth Schedule.—In the Sixth Schedule to the principal Act, in paragraph II, after sub-paragraph (3), the following sub-paragraph shall be inserted, namely:—

"(4) On the purchase of the undertaking, after the expiry, or on the revocation, of its licence or otherwise, all amounts of rebate lying undistributed to the consumers on the date of such purchase shall be handed over to the purchaser who, in turn, shall enter the same in his books of account, under the heading Consumers' Rebate Reserve and any amount lying undistributed in that Reserve shall be carried forward for distribution to the consumer concerned:

Provided that the share of money in the Consumers' Rebate Reserve payable to the consumers who are not traceable or who have ceased to be consumers in relation to that undertaking, may be utilised in the development works of the 'purchaser.'

34. Repeal and saving.—(1) The Electricity (Supply) Amendment Ordinance, 1976 (13 of 1976), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

Simla-2, the 9th February, 1977

No. LLR-E(9) 17/77.—The Representation of the People (Amendment) Ordinance, 1977 (No. 1 of 1977) promulgated by the President of India and published in the Gazette of India (Extraordinary), Part II, Section 1, is hereby republished in the Himachal Pradesh Government Rajapatra for the information of general public.

M. C. PADAM,
Under Secretary (Judicial).

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 2nd February, 1977/Magha 13, 1898 (Saka)

THE REPRESENTATION OF THE PEOPLE (AMENDMENT) ORDINANCE, 1977

NO. 1 OF 1977

Promulgated by the President in the Twenty-eighth Year of the Republic of India.

An Ordinance further to amend the Representation

of the People Act, 1951.

Whereas the House of the People has been dissolved and the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. Short title and commencement.—(1) This Ordinance may be called the Representation of the People (Amendment) Ordinance, 1977.

(2) It shall come into force at once.

2. Act No. 43 of 1951 to be temporarily amended.—During the period of operation of this Ordinance, the Representation of the People Act, 1951 (hereinafter referred to as the principle Act), shall have effect subject to the amendments specified in sections 3 to 7.

3. Amendment of section 8.—In section 8 of the principle Act, in sub-section (2), for the words "five years", in the two places where they occur, the words "six years" shall be substituted.

4. Amendment of section 8A.—In section 8A of the principle Act, in sub-section (3), for the words "shall obtain the opinion of the Election Commission on such question or petition and shall act according to such opinion", the words "shall consult the Election Commission and the Election Commission may, for this purpose, make such inquiry as it thinks fit" shall be substituted.

5. Amendment of section 9.—In section 9 of the principle Act, in sub-section (1), for the words "five years", the words "six years", shall be substituted.

6. Amendment of section 33.—In section 33 of the principle Act, in sub-section (3), for the words, brackets, letter and figure "clause (f) of section 7", the word and figure "section 9" and for the words "five years" the words "six years" shall be substituted.

7. Insertion of new section 132 A.—After section 132 of the principle Act, the following section shall be inserted, namely:—

132A. "Penalty for failure to observe procedure for voting."—If any elector to whom a ballot paper has been issued, refuses to observe the procedure prescribed for voting, the ballot paper issued to him shall be liable for cancellation."

FAKRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secretary,
to the Government of India.

भाग 7—भारतीय निर्वाचन आयोग (Election Commission of India) की वैधानिक अधिसूचना तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं

शृंखला

अनुपूरक

शृंखला

PART VI**LAW DEPARTMENT****NOTIFICATION**

Simla-2, the 28th December, 1976

No. LLR-E(9)12/76.—The following Acts recently passed by Parliament which have already been published in the Gazette of India, Extraordinary, Part II, Section 1, are hereby republished in the Himachal Pradesh Government Rajapatra for the information of general public:—

1. The Tea (Amendment) Act, 1976 (75 of 1976).
2. The National Library of India Act, 1976 (76 of 1976).
3. The Disturbed Areas (Special Courts) Act, 1976 (77 of 1976).
4. The Dhoties (Additional Excise Duty) Repeal Act, 1976 (93 of 1976).
5. The Factories (Amendment) Act, 1976 (94 of 1976).
6. The Braithwaite and Company (India) Limited (Acquisition and Transfer of Undertakings) Act, 1976 (96 of 1976).
7. The Burn Company and Indian Standard Wagon Company (Nationalisation) Act, 1976 (97 of 1976).
8. The Laxmirattan and Atherton West Cotton Mills (Taking Over of Management) Act, 1976 (98 of 1976).
9. The Salaries and Allowances of Members of Parliament (Amendment) Act, 1976 (105 of 1976).
10. The Untouchability (Offences) Amendment and Miscellaneous Provision Act, 1976 (106 of 1976).
11. The Constitution (Forty-first Amendment) Act, 1976.

M. C. PADAM,
Under Secretary (Judicial).

Assented to in 11-6-1976.

THE TEA (AMENDMENT) ACT, 1976

(ACT NO. 75 OF 1976)

AN
ACT

further to amend the Tea Act, 1953.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Tea (Amendment) Act, 1976.

2. *Insertion of new Chapter IIIA.*—After Chapter III of the Tea Act, 1953 (29 of 1953), the following Chapter shall be inserted, namely:—

'CHAPTER IIIA**MANAGEMENT OR CONTROL OF TEA UNDERTAKINGS OR TEA UNITS BY THE CENTRAL GOVERNMENT IN CERTAIN CIRCUMSTANCES**

16A. *Definitions.*—(1) In this Chapter, unless the context otherwise requires,—

(a) “authorised person” means the person or body of persons authorised, or appointed, by the

Central Government under this Act to take over the management of any tea undertaking or tea unit;

- (b) “company” means a company within the meaning of section 3 of the Companies Act, 1956 (1 of 1956);
- (c) “district average yield” means the average yield of tea in the district in which one or more tea units are located, as published by the Board;
- (d) “notified order” means an order notified in the Official Gazette;
- (e) “tea undertaking” means an undertaking engaged in the production or manufacture, or both, of tea through one or more tea units;
- (f) “tea unit” means a tea estate or garden, including a sub-division thereof, which has a distinct entity for which accounts are kept and has a factory of its own for the production and manufacture of tea.

(2) References to an industrial undertaking in such of the provisions of the Industries (Development and Regulation) Act, 1951 (65 of 1951), as apply to a tea undertaking or tea unit by virtue of the provisions of this Chapter, shall be construed as references to a tea undertaking or tea unit, as the case may be, references in the Act aforesaid to any provision of that Act, as applicable to a tea undertaking or tea unit, in relation to which a corresponding provision has been made in this Act, shall be construed as references to such corresponding provision.

16B. *Power to cause investigation to be made in relation to area under taking or tea unit.*—(1) Where the Central Government is of opinion in respect of a tea undertaking or a tea unit that—

- (a) the tea undertaking or, as the case may be, the tea unit, has made losses in three out of five years immediately preceding the year in which such opinion is formed; or
- (b) the average yield of the tea undertaking, or, as the case may be, the tea unit, during three years out of five years immediately preceding the year in which such opinion is formed, has been lower than the district average yield by twenty-five per cent, or more; or
- (c) the persons owning the tea undertaking, or, as the case may be, the tea unit, have habitually made default in the payment of wages, or provident fund dues of workers and other employees, or rent of the land, or duties of excise, or such other dues as they are under an obligation to pay under any law for the time being in force; or
- (d) the tea undertaking, or, as the case may be, the tea unit, is being managed in a manner highly detrimental to the tea industry or to public interest,

the Central Government may make, or cause to be made, a full and complete investigation into the affairs of the tea undertaking or, as the case may be, the tea unit, by such person or body of persons as it may appoint for the purpose.

(2) Where a company owning a tea undertaking is being wound up by or under the supervision of the Court and the business of such company is not being continued, the Central Government may, if it is of opinion that it is necessary, in the interests of the general

public, and, in particular, in the interest of production, supply or distribution of tea, to investigate into the possibility of running or restarting the tea undertaking, make an application to the Court, praying for permission to make, or cause to be made, an investigation into such possibility by such person or body of persons as that Government may appoint for the purpose; and, where such an application is made, the Court shall, notwithstanding anything contained in the Companies Act, 1956 (1 of 1956), or in any other law for the time being in force, grant the permission prayed for.

(3) The person or body of persons appointed to make any investigation under sub-section (1) or, as the case may be, sub-section (2), shall have the same powers as are specified in section 18 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

16C. Power of Central Government on completion of investigation.—(1) If, after making or causing to be made any such investigation as is referred to in sub-section (1) of section 16B, the Central Government is satisfied that action under this section is desirable, it may, issue such directions to the tea undertaking or tea unit concerned, as may be appropriate in the circumstances, for all or any of the following purposes, namely:—

- (a) regulating the production of tea by the undertaking or, as the case may be, tea unit and fixing the standards of production;
- (b) requiring the tea undertaking or, as the case may be, tea unit to take such steps as the Central Government considers necessary to stimulate the production, manufacture or plantation, of tea;
- (c) prohibiting the tea undertaking or, as the case may be, tea unit from resorting to any act or practice which might reduce its production, capacity or economic value;
- (d) controlling the prices, or regulating the distribution, of tea produced or manufactured by the tea undertaking or, as the case may be, tea unit.

(2) Where a case relating to any tea undertaking or tea unit is under investigation, the Central Government may issue, at any time, any direction of the nature referred to in sub-section (1) to the tea undertaking or the tea unit concerned and any such direction shall have effect until it is varied or revoked by the Central Government.

16D. Power of Central Government to assume management or control of tea undertaking or tea unit in certain cases.—(1) If the Central Government is of opinion that—

- (a) a tea undertaking or tea unit, to which directions have been issued in pursuance of section 16C, has failed to comply with such directions, or the tea undertaking or, as the case may be, the tea unit, has made losses in three out of five years immediately preceding the year in which such opinion is formed; or
- (b) the average yield of the tea undertaking, or, as the case may be, the tea unit during three years out of five years immediately preceding the year in which such opinion is formed, has been lower than the district average yield by twenty-five per cent or more; or
- (c) the persons owning the tea undertaking, or, as the case may be, the tea unit, have habitually

made default in the payment of wages, or provident fund dues, of workers and other employees, or rent of the land, or duties of excise or in the payment of such other dues as are obligatory under any law for the time being in force; or

- (d) the undertaking, or, as the case may be, the tea unit, is being managed in a manner highly detrimental to the tea industry or to public interest,

the Central Government may, by notified order, authorise any person or body of persons to take over the management of the whole or any part of the tea undertaking or tea unit, as the case may be, or to exercise in respect of the whole or any part of the tea undertaking or, as the case may be, tea unit such functions of control as may be specified in the order.

(2) Any notified order issued under sub-section (1) shall have effect for such period, not exceeding five years as may be specified in the order:

Provided that if the Central Government is of opinion that it is expedient in the public interest that any such notified order should continue to have effect after the expiry of the period of five years aforesaid, it may from time to time issue directions for such continuance for such period not exceeding one year at a time, as may be specified in the direction, so, however, that the total period of such continuance (after the expiry of the said period of five years) does not exceed two years; and where any such direction is issued, a copy thereof shall be laid, as soon as may be, before both Houses of Parliament.

(3) Any notified order issued under sub-section (1) shall have the same effect as if it were an order made under sub-section (1) of section 18A of the Industries (Development and Regulation) Act, 1951 (65 of 1951), and the provisions of section 18B of that Act shall apply accordingly.

(4) Notwithstanding anything contained in any law for the time being in force, no person, who ceases to hold any office by reason of the provisions contained in clause (a), or whose contract of management is terminated by reason of the provisions contained in clause (b), of section 18B of the Industries (Development and Regulation) Act, 1951 (65 of 1951) as applicable to a tea undertaking or tea unit by virtue of the provisions of sub-section (3), shall be entitled to any compensation for the loss of office or for the premature termination of his contract of management:

Provided that nothing contained in this section shall affect the right of any such person to recover from the tea undertaking or the tea unit, as the case may be, monies recoverable otherwise than by way of such compensation.

16E. Power to take over tea undertaking or tea unit without investigation under certain circumstances.—(1) Without prejudice to any other provision of this Act, if, from the documentary or other evidence in its possession, the Central Government is satisfied, in relation to a tea undertaking or tea unit, that—

- (a) the persons in charge of such tea undertaking or tea unit have, by reckless investments or creation of incumbrances on the assets of the tea undertaking or tea unit, or by diversion of

funds, brought about a situation which is likely to affect the production of tea, manufactured or produced by the tea undertaking or tea unit, and that immediate action is necessary to prevent such a situation; or

(b) it has been closed for a period of not less than three months (whether by reason of the voluntary winding up of the company owning the tea undertaking or tea unit or for any other reason) and such closure is prejudicial to the concerned tea undertaking or tea unit and that the financial condition of the company owning the tea undertaking or tea unit and the plant and machinery of such tea undertaking or tea unit are such that it is possible to restart the tea undertaking or tea unit and such restarting is necessary in the interests of the general public,

it may, by notified order, authorise any person or body of persons to take over the management of the whole or any part of the tea undertaking or tea unit or to exercise in respect of the whole or any part of the tea undertaking or tea unit such functions of control as may be specified in the order.

(2) On the issue of a notified order under sub-section (1) in respect of a tea undertaking or tea unit,—

(a) the provisions of sub-sections (2), (3) and (4) of section 16D, and the provisions of section 16G, shall apply to a notified order made under sub-section (1) as they apply to a notified order made under sub-section (1) of section 16D; and

(b) the provisions of sub-sections (3) and (4) of section 18AA of the Industries (Development and Regulation) Act, 1951 (65 of 1951), shall apply to the tea undertaking or tea unit, as the case may be, to the same extent as they apply to an industrial undertaking.

16F. Contracts in bad faith, etc., may be cancelled or varied.—Without prejudice to the provisions of section 18B of the Industries (Development and Regulation) Act, 1951 (65 of 1951), as applicable to a tea undertaking or tea unit, as the case may be, the person or body of persons authorised under section 16D, or, as the case may be, section 16E, to take over the management of a tea undertaking or tea unit may, with the previous approval of the Central Government, make an application to any court having jurisdiction in this behalf for the purpose of cancelling or varying any contract or agreement entered into, at any time before the issue of the notified order under section 16D or section 16E, between the tea undertaking or the tea unit and any other person; and the court may, if satisfied after due inquiry that such contract or agreement had been entered into in bad faith or is detrimental to the interests of the tea undertaking or tea unit, make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) that contract or agreement, and the contract or agreement shall have effect accordingly.

16G. Application of Act 1 of 1956.—(1) Where the management of a tea undertaking or tea unit owned by a company has been taken over by any person or body of persons authorised by the Central Government under this Act, then, notwithstanding anything contained in the said Act or in the memorandum or articles of association of such company,—

- (a) it shall not be lawful for the shareholders of such company or any other person to nominate or appoint any person to be a director of the company;
- (b) no resolution passed in a meeting of the shareholders of such company shall be given effect to unless approved by the Central Government;
- (c) no proceeding for the winding up of such company or for the appointment of receiver in respect thereof shall lie in any court except with the consent of the Central Government.

(2) Subject to the provisions contained in sub-section (1), and to the other provisions contained in this Act, and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Companies Act, 1956 (1 of 1956), shall continue to apply to such company in the same manner as it applied thereto before the issue of the notified order.

16H. Power of Central Government to cancel notified order under section 16D or 16E.—If, at any time, it appears to the Central Government on the application of the owner of a tea undertaking or tea unit or otherwise that the purpose of the order made under section 16D or section 16E, has been fulfilled or that for any other reason it is not necessary that the order should remain in force, the Central Government may, by notified order, cancel such order and, on the cancellation of any such order, the management or control as the case may be, of the tea undertaking or tea unit, as the case may be, shall vest in the owner of that undertaking or unit.

16I. Power of Central Government to authorise, with the permission of the Court, persons to take over management or control of tea undertaking or tea units.—(1) If the Central Government is of opinion that there are possibilities of running or restarting a tea undertaking or tea unit in relation to which an investigation has been made under sub-section (2) of section 16B, and that such tea undertaking or tea unit should be run or restarted for maintaining or increasing the production, supply or distribution of tea, that Government may make an application to the Court by which the company owning such tea undertaking or tea unit has been ordered to be wound up, praying for permission to appoint any person or body of persons to take over the management of the tea undertaking or, as the case may be, tea unit, or to exercise in respect of the whole or any part of the tea undertaking or tea unit, such functions of control as may be specified in the application.

(2) Where an application is made under sub-section (1),—

- (a) the provisions of sub-section (2) of section 18FA of the Industries (Development and Regulation) Act, 1951 (65 of 1951), shall apply to the tea undertaking or tea unit as the case may be, subject to the modification that the words "twelve years" occurring in the second proviso thereto, the words "two years" shall be substituted;
- (b) the provisions of sub-sections (3) to (10) (both inclusive) of section 18FA of the Industries (Development and Regulation) Act, 1951 (65 of 1951), shall apply to the tea undertaking or tea unit referred to in sub-section (1), to the same extent as they apply to an industrial undertaking.

16J. Power of Central Government to make certain declarations in relation to tea undertaking or tea units.—The Central Government may, if it is satisfied in relation to a tea undertaking, tea unit or any part thereof, the management or control of which has been taken over under section 16D or under section 16E or under section 16-I, that it is necessary so to do in the interests of the general public with a view to preventing fall in the volume of the production of tea, exercise in relation to such tea undertaking or tea unit or part thereof the same powers as are exercisable by it in relation to an industrial undertaking under section 18FB of the Industries (Development and Regulation) Act, 1951, (65 of 1951), and the said section and the Third Schedule referred to therein shall apply to a tea undertaking or tea unit accordingly.

16K. Power of Central Government to call for report on the affairs and working of a managed tea undertaking or tea unit.—(1) Where the management or control of a tea undertaking or tea unit, as the case may be, has been taken over under section 16D or under section 16E or under section 16-I, the Central Government may, at any time during the continuance of such management or control, call for a report from the authorised person on the affairs and working of the tea undertaking or tea unit, and in submitting the report the authorised person shall take into account the inventory and list of members and creditors prepared under section 16L.

(2) On receipt of the report submitted by the authorised person, the Central Government may exercise all or any of the powers conferred on it by sections 18FD, 18FE and 18FF of the Industries (Development and Regulation) Act, 1951, (65 of 1951) to the same extent and subject to the same conditions, limitations or restrictions as are specified in the said sections, and the provisions of the said sections shall become applicable to a tea undertaking or tea unit, as the case may be.

16L. Preparation of an inventory of the assets and liabilities and list of members and creditors of managed tea undertaking or tea unit.—For the purposes of this Act, the authorised person shall, as soon as may be after taking over the management of a tea undertaking or tea unit, prepare a complete inventory of the properties, belongings, liabilities and obligations of such tea undertaking or tea unit, as the case may be, and a list of members and creditors of such tea undertaking or tea unit, in accordance with the provisions of section 18FG of the Industries (Development and Regulation) Act, 1951 (65 of 1951), and the said section shall apply to a tea undertaking or tea unit accordingly.

16M. Bar of suits and other proceedings in relation to the tea undertakings or tea units.—No suit or other legal proceedings shall be instituted or continued against a tea undertaking or tea unit in respect of which an order has been made under section 16D or section 16E, except with the previous permission of the Central Government or of any officer authorised by that Government in this behalf.

16N. Rules made under Act 65 of 1951 to apply.—Until any rule is made in relation to any matter referred to in this Chapter, the rules made by the Central Government under the Industries (Development and Regulation) Act, 1951, in relation to such matter, shall, as far as may be, apply, to the extent they are not repugnant to any provision of this Act or any rule made thereunder and references in such rules to the provisions of that Act shall be construed accordingly.

Assented to on 11-6-1976.

THE NATIONAL LIBRARY OF INDIA ACT, 1976

(ACT NO. 76 OF 1976)

AN

ACT

to provide for the administration of the National Library and certain other connected matters.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title and commencement.—(1) This Act may be called the National Library of India Act, 1976.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

- (a) “Board” means the Board established under section 3;
- (b) “Chairman” means the Chairman of the Board;
- (c) “Fund” means the Fund referred to in section 23;
- (d) “Library” means the institution located at Calcutta and known at the commencement of the Constitution as the National Library;
- (e) “member” means a member of the Board and includes the Chairman;
- (f) “prescribed” means prescribed by rules made under this Act.

CHAPTER II

THE NATIONAL LIBRARY BOARD

3. Establishment and incorporation of Board.—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established for the purposes of this Act, a Board to be known as the National Library Board.

(2) The Board shall be a body corporate with the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and contract and may by that name, sue and be sued.

(3) Notwithstanding anything contained in sub-section (2), the Board shall not, except with the previous approval of the Central Government, sell or otherwise dispose of any manuscripts, books, articles or things belonging to the Library, other than articles of furniture, stationery and dead stock of like nature:

Provided that where any such manuscripts, books, articles or things donated by any person to the Library are proposed to be sold or otherwise disposed of, no approval under this sub-section shall be accorded unless

the donor or his successor-in-interest, as the case may be, has permitted in writing to do so.

4. Composition of the Board.—The Board shall consist of the following members, namely:—

- (i) a Chairman, being a person of academic distinction, to be nominated by the Central Government;
- (ii) three persons to be elected by Parliament, two from the House of the People by the members of the House of the People and one from the Council of State by the members of the Council of States;
- (iii) three persons to be nominated by the Governments of the States by rotation in the alphabetical order;
- (iv) four persons to represent the Universities in India, to be nominated in the prescribed manner.

Explanation.—For the purpose of this clause “University” has the meaning assigned to it in the University Grants Commission Act, 1956 (3 of 1956), and includes an educational institution declared by Parliament by law to be an institution of national importance;

- (v) the Chairman of the University Grants Commission or a member of that Commission to be nominated by the Chairman thereof;
- (vi) the Chief Librarian, by whatever name called, of one of the public libraries within the meaning of clause (b) of section 2 of the Delivery of Books and Newspapers (Public Libraries) Act, 1954 (27 of 1954), but not including the National Library, Calcutta, to be nominated by the Central Government by rotation in the alphabetical order;
- (vii) the Chief Librarian, by whatever name called, of one of the public libraries in India [not being a library referred to in clause (vi)] containing important collections of manuscripts of historical, literary or aesthetic importance, to be nominated by the Central Government;
- (viii) one person to be nominated by the Indian Library Association, a society registered under the Societies Registration Act, 1860 (21 of 1860);
- (ix) the Director, National Archives of India;
- (x) eight scholars of repute in different disciplines covering humanities, science, social science, medicine, engineering and technology and law, to be nominated by the Central Government;
- (xi) two persons to be elected by the officers and other employees serving in the Library from amongst themselves in such manner as may be prescribed:

Provided that at least one such person shall be a member of the technical staff of the Library.

Explanation.—For the purposes of this clause “member of the technical staff” means the Librarian, Deputy Librarian, Assistant Librarian, Technical Assistant, Junior Technical Assistant, Lecturer, Microphotographer, Chemist and such other like categories of persons as may be prescribed;

- (xii) two persons, not below the rank of Joint Secretary to the Government of India, to be nominated by the Central Government, to represent respectively the Ministry or Department of the Central Government dealing with

matters relating to the Library and the Ministry of the Central Government dealing with Finance;

- (xiii) one person to be nominated by the Government of West Bengal to represent that Government;
- (xiv) the Director of the Library, who shall be the Member-Secretary.

5. Disqualification for office of member.—A person shall be disqualified for being nominated, or, as the case may be, elected, as, and for being, a member of the Board or the Executive Council referred to in section 11,—

- (a) if he has been convicted and sentenced to imprisonment for an offence which involves moral turpitude; or
- (b) if he is an undischarged insolvent; or
- (c) if he is of unsound mind and is so declared by a competent court; or
- (d) if he has such financial or other interest in the Board as is likely to affect prejudicially the discharge by him of his function as a member.

6. Term of office, etc., of members.—(1) Every nomination or election, as the case may be, of the Chairman and the other members under section 4 shall be notified by the Central Government in the Official Gazette and their term of office shall be three years from the date of such notification:

Provided that the term of office of a member elected under clause (ii) of sub-section (1) of section 4 or under clause (xi) of that sub-section shall come to an end as soon as he ceases to be a member of the House from which he was elected or, as the case may be, he ceases to be in the employment of the Board.

(2) Any nominated or elected member may resign his office by giving notice in writing to the Central Government and, on such resignation being notified by the Central Government in the Official Gazette, he shall be deemed to have vacated his office.

(3) A casual vacancy created by the resignation of a nominated or elected member under sub-section (2) or by any other reason may be filled by fresh nomination by the authority which nominated the member or, as the case may be, by fresh election by the House or body which elected the member and such nomination or election shall be notified by the Central Government in the Official Gazette and a member so nominated or elected shall hold office for the remaining period for which the member in whose place he is nominated or elected would have held office.

(4) An outgoing member shall be eligible for re-nomination or re-election.

(5) If any nominated member is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his office, the authority which nominated the member may nominate another person to act in his place during his absence.

7. Vacant of office of member.—The Central Government shall remove a member of the Board or the Executive Council referred to in section 11 if he—

- (a) becomes subject to any of the disqualifications mentioned in section 5;

Provided that no member shall be removed on the ground that he has become subject to the disqualification mentioned in clause (d) of that section unless he has been given a reasonable opportunity of being heard in the matter; or

(b) is, without obtaining leave of absence from the Board, absent from three consecutive meetings of the Board or the Executive Council, as the case may be.

8. Vacancies, etc., not to invalidate acts.—No act of the Board shall be invalid merely by reason of—

- (a) any vacancy in, or defect in the constitution of, the Board, or
- (b) any defect in the nomination of the person acting as a member thereof, or
- (c) any irregularity in its procedure not affecting the merits of the case.

9. Members to disclose their financial or other interest in the Board.—Any member who is in any way directly or indirectly interested in a contract made or proposed to be made by the Board shall, as soon as possible, after the relevant circumstances have come to his knowledge, disclose the nature of his interest at a meeting of the Board and the disclosure shall be recorded in the minutes of the Board and the member shall not take part after the disclosure in any deliberation or decision of the Board with respect to that contract.

10. Meetings of Board.—(1) The Board shall meet at least twice a year, ordinarily at the premises of the Library, and shall, subject to the provisions of sub-sections (2), (3) and (4), observe such rules of procedure in regard to the transaction of business at its meetings including the quorum at meetings, as may be provided by regulations made under this Act.

(2) The Chairman or, in his absence, any member chosen by the members present from among themselves, shall preside at a meeting of the Board.

(3) If any member, being an officer of the Government, is unable to attend any meeting of the Board, he may, with the previous approval of the Chairman, authorise an officer of the Ministry or Department not below the rank of Deputy Secretary to the Government of India, in writing to do so.

(4) All questions at a meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairman or, in his absence, the member presiding, shall have a second or casting vote.

11. Executive Council.—(1) There shall be an Executive Council of the Board consisting of nine members.

(2) The Director of the Library shall be the Chairman of the Executive Council and the other members thereof shall be appointed by the Board partly from among the members of the Board and partly from outside:

Provided that a representative each from the Ministry of the Central Government dealing with Finance and the Ministry or Department of the Central Government dealing with the Library and a representative of the Government of West Bengal shall be members of the Executive Council:

Provided further that without prejudice to the provisions of the preceding proviso not more than three persons shall be appointed from outside.

(3) The Executive Council shall assist the Board in the exercise of its powers and the performance of its duties under this Act, and shall exercise such of the powers and perform such of the duties of the Board as may be prescribed or as the Board may delegate to it subject to such conditions as the Board may deem fit.

(4) With the previous approval of the Board, it shall be competent for the Executive Council to entertain and adjudicate upon any grievance of the officers and other employees of the Board.

(5) The term of office of those members of the Executive Council who are not members of the Board shall be co-terminus with the term of office of the members of the Board.

12. Temporary association of persons with Board for particular purposes.—(1) The Board may associate with itself in such manner and for such purposes as may be provided by regulations made under this Act, any person whose assistance or advice it may desire in performing any of its functions under this Act.

(2) A person associated with it by the Board under sub-section (1) for any purpose shall have right to take part in the discussions of the Board relating to that purpose, but shall not, by virtue of this section, be entitled to vote.

13. Authentication of orders and other instruments of Board and Executive Council.—(1) All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other member authorised by the Board in this behalf and all other instruments issued by the Board shall be authenticated by the signature of an officer of the Board authorised in like manner in this behalf.

(2) All orders and decisions of the Executive Council shall be authenticated by the signature of the Director of the Library.

14. Visitor.—(1) The President of India shall be the Visitor of the Library.

(2) The Visitor shall have the right to cause an inspection of the Library to be made or to cause an inquiry to be made in respect of any matter connected with the Library by such person or persons as he may direct.

(3) The Visitor shall in every case give notice to the Board of his intention to cause an inspection or inquiry to be made and the Board shall be entitled to appoint a representative who shall have the right to be present and be heard at such inspection or inquiry.

(4) The Visitor may address the Chairman with reference to the result of such inspection and inquiry, and the Chairman shall communicate to the Board the views of the Visitor with such advice as the Visitor may offer upon the action to be taken thereon.

(5) The Board shall communicate through the Chairman to the Visitor such action, if any, as it is proposed to take or has been taken upon the result of such inspection or inquiry.

(6) Where the Board does not, within a reasonable time, take action to the satisfaction of the Visitor, the Visitor may, after considering any explanation furnished or representation made by the Board, issue such direction as he may think fit and the Board shall be bound to comply with such direction.

(7) Without prejudice to the foregoing provisions of this section, the Visitor may, by order in writing, annual or stay any proceedings of the Board which are not in conformity with the provisions of this Act or the rules or regulations made thereunder:

Provided that no such order shall be made unless the Board has been given a reasonable opportunity of making a representation in the matter.

15. Director of Library.—(1) The Visitor shall appoint, in such manner as may be prescribed, a person who is a scholar of distinction or is a distinguished librarian possessing high academic status, as the Director of the Library.

(2) The term of office of the Director shall be for a period of five years from the date on which he assumes office or up to the age of sixty years, whichever is later:

Provided that no person shall hold the office of Director after he attains the age of sixty-five years.

(3) The Director shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed.

(4) The person appointed as the Director and holding office as such at the commencement of this Act shall be deemed to have been appointed under this section and the provisions thereof shall apply to him accordingly.

16. Staff of Board.—(1) Subject to the provisions of this section, the Board may, for the purpose of enabling it efficiently to perform its functions under this Act, appoint such number of officers and other employees as it may deem fit and in making such appointments the Board shall act in conformity with the orders of the Central Government for the time being in force regarding reservation for the Scheduled Castes and the Scheduled Tribes in the services of the Union.

(2) The recruitment and conditions of service of such officers and other employees shall be such as may be provided by regulations made under this Act.

(3) Every officer or other employee of the Board, not being an officer or other employee appointed on deputation, shall be appointed on a written contract which shall be lodged with the Board and a copy of which shall be furnished to the employee concerned.

(4) Any dispute arising out of a contract between the Board and any of its officers or other employees, not being an officer or other employee appointed on deputation, shall, at the request of the employee concerned or at the instance of the Board, be referred to a Tribunal of Arbitration consisting of one member appointed by the Board, one member nominated by the employee, and an umpire appointed by the Visitor.

(5) The decision of the Tribunal of Arbitration shall be final and shall not be questioned in any court.

(6) No suit or other proceeding shall lie in any court in respect of any matter which is required by sub-section 4 to be referred to the Tribunal of Arbitration.

(7) The Tribunal of Arbitration shall have power to regulate its own procedure.

(8) Nothing in any law for the time being in force relating to arbitration shall apply to arbitrations under this section.

17. Transfer of service of existing employees to Board.—

(1) On the establishment of the Board it shall be lawful for the Central Government to transfer by order and with effect from such date or dates as may be specified in the order to the Board any of the officers or other employees serving in the Library:

Provided that no order under this sub-section shall be made in relation to an officer or other employee who has in respect of the proposal of the Central Government to transfer such officer or employee to the Board intimated within such time as may be specified in this behalf by that Government, his intention of not becoming an employee of the Board.

(2) An officer or other employee transferred by an order made under sub-section (1) shall, on and from such date, cease to be an employee of the Central Government, and shall become an employee of the Board with such designation as the Board may determine and shall, subject to the provisions of sub-sections (3), (4) and (5) be governed by the regulations made by the Board under this Act as respects remuneration and other conditions of service including pension, leave and provident fund and shall continue to be an employee of the Board unless and until his employment is terminated by the Board.

(3) Every officer or other employee transferred by an order made under sub-section (1), shall, within six months from such date, exercise his option in writing to be governed—

(a) by the scale of pay applicable to the post held by him under the Government immediately before the date of establishment of the Board or by the scale of pay applicable to the post under the Board to which he is transferred,

(b) by the leave, provident fund, retirement or other terminal benefits admissible to employees of the Central Government in accordance with the rules and orders of the Central Government as amended from time to time or the leave, provident fund or other terminal benefits admissible to the employees of the Board under the regulations made by the Board under this Act, and such option once exercised shall be final:

Provided that the option exercised under clause (a) shall be applicable only in respect of the post to which such person is transferred to the Board and on appointment to a higher post under the Board, he shall be eligible only for the scale of pay applicable to such higher post;

Provided further that if immediately before the date of his transfer any such person is officiating in a higher post under the Government either in a leave vacancy or in any other vacancy of a specified duration, his pay, on transfer, shall be protected for the unexpired period of such vacancy and thereafter he shall be entitled to the scale of pay applicable to the post under the Government to which he would have reverted or to the scale of pay applicable to the post under the Board to which he is transferred, whichever he may opt.

(4) No officer or other employee transferred by an order made under sub-section (1)—

- (a) shall be dismissed or removed by an authority subordinate to that competent to make a similar or equivalent appointment under the Board as may be specified in the regulations made by the Board under this Act;
- (b) shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and where it is proposed, after such inquiry, to impose on him any such penalty, until he has been given a reasonable opportunity of making a representation on the penalty proposed, but only on the basis of the evidence adduced during such inquiry:

Provided that this clause shall not apply,—

- (i) where any officer or other employee is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or
- (ii) where the authority empowered to dismiss or remove any officer or other employee or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or
- (iii) to any officer or other employee who, after transfer to the Board, is appointed to a higher post under the Board in response to an open advertisement and in competition with outsiders.

(5) If, in respect of any such officer or other employee as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in sub-section (4) the decision thereon of the authority empowered to dismiss or remove him or to reduce him in rank shall be final.

18. Library to be known as "National Library of India" and location of Library.—(1) On and after the commencement of this Act, the Library shall be known as "the National Library of India", and any reference to the National Library in any law for the time being in force or in any indenture, instrument or other document shall be construed as a reference to the National Library of India.

(2) The Library shall continue to be located at Calcutta.

CHAPTER III

PROPERTY, LIABILITIES AND FUNCTIONS OF THE BOARD

19. Property and liabilities of Board.—(1) On the establishment of the Board—

- (i) all properties, funds and dues which are vested in, or realisable by, the Central Government for the purposes of the Library shall vest in, and be realisable by, the Board; and
- (ii) all liabilities in relation to the Library, which are enforceable against the Central Government, shall be enforceable only against the Board.

(2) All properties, which may, after the establishment of the Board, be given, bequeathed or otherwise transferred to the Library or acquired by the Board shall vest in the Board.

20. (1) It shall be the general duty of the Board to manage the Library and to implement programmes for the development of the Library on modern scientific lines, to advise the Central and State Governments on matters relating to libraries and the working thereof, including the preparation of bibliographies, descriptive catalogues and other matters and perform such other functions as the Central Government may, from time to time, assign to the Board.

(2) In particular and without prejudice to the generality of the foregoing provision, the Board may take such steps as it thinks fit,—

- (a) to render service to the public for using the Library and to conserve the existing collection of manuscripts, books and other articles in the Library, on modern scientific lines;
- (b) to acquire and conserve all significant production of material printed in India, all printed material concerning India irrespective of the place from where it is published, and manuscripts of national importance;
- (c) to render technical advice to the other public libraries within the meaning of clause (b) of section 2 of the Delivery of Books and Newspapers (Public Libraries) Act, 1954 (27 of 1954);
- (d) to undertake publication of bibliographies and assist institutions and scholars in the publication of bibliographies;
- (e) to provide facilities for, or to promote symposia and seminars on matters relating to history, literature, science and the like;
- (f) to arrange for the exhibition of such manuscripts, books, articles or things of the Library as, in the opinion of the Board, would be of interest to the public;
- (g) to undertake and promote exchange of books and periodicals with libraries and other institutions in countries outside India;
- (h) to undertake duplication (including photo-duplication), preservation of manuscripts, books, articles or things on behalf of any person or institution on such terms and conditions as may be agreed upon between the Board and such person or institution; and
- (i) to do all such other things as may be commensurate with the role of a national library.

21. Powers of Board.—(1) Subject to such conditions and restrictions as the Central Government may think fit to impose, the Board may exercise all such powers as may be necessary or expedient for the purpose of carrying out its duties under this Act.

(2) Subject to such regulations as may be made by the Board in this behalf, the Board may, from time to time, purchase or otherwise acquire such manuscripts, books, articles or things as may, in the opinion of the Board, be worthy of preservation in the Library.

CHAPTER IV

FINANCE, ACCOUNTS, AUDIT AND REPORT

22. Grants by Central Government to Board.—For the purpose of enabling the Board to perform its functions efficiently under this Act, the Central Government

may, after due appropriation made by Parliament by law in this behalf, pay to the Board in each financial year such sums of money as that Government considers necessary by way of grant, loan or otherwise.

23. Fund of Board.—(1) The Board shall maintain a Fund to which shall be credited—

- (a) all moneys paid by the Central Government;
- (b) all fees and other charges levied under this Act;
- (c) all moneys received by the Board by way of grant, gift, donation, benefaction, bequest, subscription, contribution or transfer;
- (d) all other moneys received by the Board in any other manner or from any other source.

(2) The Board may expend such sums as it thinks fit for performing its functions under this Act and such sums shall be treated as expenditure payable out of the Fund.

(3) A sum of money not exceeding such amount as may be provided by regulations made under this Act may be kept in current account with any scheduled bank as defined in section 2 of the Reserve Bank of India Act, 1934 (2 of 1934), or any other bank approved by the Central Government in this behalf but any moneys in excess of that sum shall be deposited in the Reserve Bank of India or with the agents of the Reserve Bank of India or invested in such manner as may be approved by the Central Government.

24. Budget.—(1) The Board shall by such date in each year as may be specified by the Central Government, submit to it for approval a budget for the next financial year in the form specified by it, showing the estimated receipts and expenditure, and the sums which would be required from the Central Government during that financial year.

(2) If any sum granted by the Central Government remains wholly or partly unspent in any financial year, the unspent sum may be carried forward to the next financial year and taken into account in determining the sum to be provided by the Central Government for that year.

(3) Subject to the provisions of sub-section (4), no sum shall be expended by or on behalf of the Board, unless the expenditure is covered by provision in the budget approved by the Central Government.

(4) Subject to such conditions and restrictions as the Central Government may think fit to impose, the Board may sanction any reappropriation from one head of expenditure to another or from a provision made for one purpose to that for another purpose.

25. Accounts and audit.—(1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of account including the balance sheet in such form as may be specified, and in accordance with such general directions as may be issued, by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Board shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Board and the Library.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded by the Board annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

26. Returns and report.—(1) The Board shall furnish to the Central Government at such time and in such form and in such manner as the Central Government may direct such returns, statements and particulars as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Board shall, as soon as possible after the commencement of each financial year, submit to the Central Government within such time as may be specified by the Central Government a report giving true and full account of the activities of the Board during the previous financial year and an account of activities likely to be undertaken during the current financial year and the Central Government shall cause the same to be laid before each House of Parliament.

CHAPTER V

MISCELLANEOUS

27. Delegation of powers and duties.—The Board, may, by a general or special order in writing, direct that all or any of the powers or duties which may be exercised or discharged by it shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised or discharged also by any member, or any officer or other employee of the Board, specified in this behalf in the order.

28. Officers and employees of Board to be public servants.—All officers and other employees of the Board (including the Director of the Library) shall, when acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

29. Protection of action taken under the Act.—No suit, prosecution or other legal proceeding shall lie against the Board or any member, or any officer or other employee of the Board (including the Director of the Library), for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or of any rule or regulation made thereunder.

30. Power of Central Government to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act:

Provided that when the Board has been established no such rule shall be made without consulting the Board.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the travelling and other allowances payable to a member (including a member of the Executive Council appointed under section 11) and to a person associated with the Board under section 12;
- (b) the manner of appointment to the post of, and the salary and allowances and other terms and conditions of service of, the Director of the Library under section 15;
- (c) the conditions subject to which, and the mode in which, contracts may be entered into by or on behalf of the Board;
- (d) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

31. Power of Board to make regulations.—(1) The Board may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations, not inconsistent with this Act and the rules made thereunder, for enabling it to perform its functions under this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all, or any of the following matters, namely:—

- (a) the conditions and restrictions subject to which manuscripts and books in the Library may be used;
- (b) the manner in which and the purposes for which persons may be associated with the Board;
- (c) the time and place of meetings of the Board, the procedure to be followed in regard to the transaction of business at such meetings and the quorum necessary for the transaction of business at a meeting;
- (d) the maintenance of minutes of meetings of the Board and the transmission of copies thereof to the Central Government;
- (e) the recruitment and conditions of service of officers and other employees of the Board;
- (f) the person by whom and the manner in which, payments, deposits and investments may be made on behalf of the Board;
- (g) the maximum amount that may be kept in the current account;
- (h) the maintenance of registers and accounts;
- (i) the compilation of catalogues and inventories of the manuscripts, books, articles and things in the Library;
- (j) the steps to be taken for the preservation of the manuscripts, books, articles and things in the Library;

(k) the general management of the Library;

(l) the fees and other charges to be levied for the facilities that may be afforded for photo-copying of manuscripts and books in the Library;

(m) the charges that may be levied by way of rent for the use of rooms in the readers' hostel in the Library;

(n) any other matter in respect of which provision is, in the opinion of the Board, necessary for the performance of its functions under this Act.

(3) The Central Government may, after consultation with the Board, by notification in the Official Gazette, amend, vary or rescind any regulation which it has approved and thereupon the regulation shall have effect accordingly but without prejudice to the exercise of the powers of the Board under sub-sections (1) and (2).

Assented to on 11-6-76.

THE DISTURBED AREAS (SPECIAL COURTS) ACT, 1976

(ACT NO. 77 OF 1976)

AN

ACT

to provide for the speedy trial of certain offences in certain areas and for matters connected therewith.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Disturbed Areas (Special Courts) Act, 1976.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States or for different parts thereof.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) "Code" means the Code of Criminal Procedure, 1973 (2 of 1974);

(b) "disturbed area" means an area declared as a disturbed area under section 3;

(c) period of disturbance, in relation to a disturbed area, means the period during which it is to be a disturbed area for the purposes of section 3;

(d) "scheduled offence" means an offence specified in the Schedule being an offence forming part or arising out of, or connected with, any such disturbance as is referred to in section 3;

(e) "Special Court" means a Special Court constituted under section 4;

(f) words and expressions used but not defined in this Act, and defined in the Code shall have the meanings respectively assigned to them in the Code.

3. Declaration of an area as disturbed area.—(1) Where a State Government is satisfied that—

(i) there was, or

(ii) there is,

in any area within a State extensive disturbance of the public peace and tranquility, by reason of differences or disputes between members of different religious, racial, language or regional groups or castes or communities, it may, by notification in the Official Gazette, declare such area to be a disturbed area.

(2) A notification issued under sub-section (1) in respect of any area shall specify the period during which the area shall, for the purposes of this section, be a disturbed area and where the State Government is satisfied that there was such disturbance of public peace and tranquility as is referred to in sub-section (1) in that area from any date prior to the issue of such notification, the period specified in the notification may commence from that date:

Provided that—

(a) no period commencing from a date earlier than three months before the date of publication of the notification shall be specified therein; and

(b) so much of the period specified in such notification as is subsequent to the date of publication of the notification shall not, in the first instance, exceed three months but the State Government may amend such notification to extend such period from time to time by any period not exceeding three months at any one time if in the opinion of the State Government there continues to be in such area such disturbance of public peace and tranquility as is referred to in sub-section (1):

Provided further that where the State Government is satisfied that there is no longer such disturbance of public peace and tranquility as is referred to in sub-section (1) in such area, it shall amend the notification issued under that sub-section in respect of that area to limit the period specified therein (whether originally or by amendment under the preceding proviso) accordingly.

4. Constitution of Special Courts.—(1) The State Government may, for the purpose of providing speedy trial of scheduled offences committed in disturbed areas, by notification in the Official Gazette, constitute as many Special Courts as may be necessary in or in relation to such disturbed area or areas as may be specified in the notification.

(2) A Special Court shall consist of a single judge who shall be appointed by the High Court upon a request made by the State Government.

Explanation.—In this sub-section, the word “appoint” shall have the meaning given to it in the *Explanation* to section 9 of the Code.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless—

(a) he is qualified for appointment as a judge of a High Court, or

(b) he has, for a period of not less than one year, been a Sessions Judge or an Additional Sessions Judge.

(4) Notwithstanding anything contained in sub-section (3), a person shall not be eligible for being appointed as, and for being, a Judge of a Special Court in any State after he has attained the age at which Sessions Judges in that State have to retire from service.

5. Jurisdiction of Special Courts.—(1) Notwithstanding anything contained in the Code or any other law, a scheduled offence committed in any disturbed area at any time during the period during which it is a disturbed area shall be triable, whether during or after such period, only by the Special Court constituted in or in relation to the disturbed area in which the offence has been committed.

(2) When trying any scheduled offence, a Special Court may also try any offence other than the scheduled offence with which the accused may, under the Code, be charged at the same trial if the offence is connected with the scheduled offence.

6. Procedure and powers of Special Courts.—(1) Every scheduled offence shall be cognizable.

(2) A Special Court may take cognizance of any scheduled offence,—

(a) where under the Code such offence is an offence triable exclusively by a Court of Session, upon its being committed to it under section 209 of the Code as if the Special Court were a Court of Session;

(b) in any other case, upon a police report of the facts together with a certificate from the public prosecutor to the effect that the offence is triable exclusively by the Special Court.

(3) Where a scheduled offence is an offence triable exclusively by a Court of Session under the Code, a Special Court shall have all the powers of a Court of Session and shall try such offence as if it were a Court of Session, so far as may be in accordance with the procedure prescribed in the Code for trial before a Court of Session.

(4) Where a scheduled offence is an offence which is punishable with imprisonment for a term exceeding three years but which, according to the provisions of the Code, is not an offence triable exclusively by a Court of Session, a Special Court may on taking cognizance of the offences perform the functions of a Magistrate under section 207 of the Code and thereafter try such offence so far as may be in accordance with the procedure prescribed in the Code for trial before a Court of Session as if the Special Court were a Court of Session and the case had been committed to it for trial under the provisions of the Code.

(5) Where a scheduled offence is punishable with imprisonment for a term not exceeding three years or fine or with both, a Special Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the Code, try the offence in a summary way in accordance with the procedure prescribed in the Code and the provisions of sections 263 to 265 of the Code, shall so far as may be, apply to such trial:

Provided that when, in the course of a summary trial under this sub-section, it appears to the Special Court that the nature of the case is such that it is undesirable to try it summarily, the Special Court shall recall any witnesses who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the Code for the trial of such offence and the said provisions shall apply to and in relation to a Special Court as they apply to and in relation to a Magistrate:

Provided further that in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding two years.

(6) A Special Court may, with a view to obtaining the evidence of any person suspected to have been directly concerned in, or privy to, an offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof and any pardon so tendered shall, for the purposes of section 308 of the Code, be deemed to have been tendered under section 307 thereof.

7. Power to transfer cases to regular courts.—Where, after taking cognizance of any offence, a Special Court is of opinion that the offence is not a scheduled offence it shall, notwithstanding that it has no jurisdiction to try the case, transfer the case for trial to any court having jurisdiction under the Code and the court to which the case is transferred may proceed with the case as if it had taken cognizance of the offence.

8. Appeal and revision.—The High Court may exercise, so far as they may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code on a High Court, as if a Special Court is a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

9. Over-riding effect of Act.—(1) The provisions of this Act shall have effect notwithstanding anything contained in the Code or any other law, but save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act apply to the proceedings before a Special Court; and for the purposes of the said provisions of the Code, the Special Court shall be deemed to be a Court of Session and the person conducting a prosecution before a Special Court shall be deemed to be a public prosecutor.

(2) In particular and without prejudice to the generality of the provisions contained in sub-section (1), the provisions of sections 326 and 475 of the Code shall, so far as may be, apply to the proceedings before a Special Court, and for this purpose references in those provisions to a Magistrate shall be construed as references to the Special Court.

10. Saving.—(1) Nothing in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, any court or other authority under any law relating to the naval, military or air forces or any other armed forces of the Union.

(2) For the removal of doubts, it is hereby declared that for the purposes of any such law as is referred to in sub-section (1), a Special Court shall be deemed to be a court of ordinary criminal justice.

THE SCHEDULE

[See section 2 (d)]

1. Offences under the following provisions of the Indian Penal Code (45 of 1860):—

Section 120B;

Sections 143 to 145, 147, 148, 151 to 155, 157, 158 and 160;

Sections 182, 183, 186 to 190;

Sections 193 to 195, 199, 201 to 203, 211 to 214, 216, 216A and 225;

Sections 295 to 298;

Sections 302, 303, 304, 307, 308, 323 to 335, 341 to 348, 352 to 358, 363 to 369 and 376;

Sections 379, 380, 382, 384 to 387, 392 to 399, 402, 411, 412, 426, 427, 431, 435, 436, 440, 447 to 462;

Sections 504 to 506 and 509.

2. Offences under the following provisions of the Arms Act, 1959 (54 of 1959):—

Sections 25 to 30.

3. Offences under the following provisions of the Indian Explosives Act, 1884 (4 of 1884):—

Sections 6 (3) and 8 (2).

Assented to on 4-9-1976.

THE DHOTIES (ADDITIONAL EXCISE DUTY) REPEAL ACT, 1976

(Act No. 93 of 1976)

AN

ACT

to repeal the Dhoties (Additional Excise Duty) Act, 1953.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Dhoties (Additional Excise Duty) Repeal Act, 1976.

2. *Repeal of Act 39 of 1953.*—The Dhoties (Additional Excise Duty) Act, 1953 is hereby repealed.

Assented to on 4-9-1976.

THE FACTORIES (AMENDMENT) ACT, 1976

(Act No. 94 of 1976)

AN

ACT

further to amend the Factories Act, 1948.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as [follows]:—

1. *Short title and commencement.*—(1) This Act may be called the Factories (Amendment) Act, 1976.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 2.—In section 2 of the Factories Act, 1948 (63 of 1948) (hereinafter referred to as the principal Act),—

(1) in clause (k),—

(a) for sub-clause (ii), the following sub-clause shall be substituted, namely:—

“(ii) pumping oil, water, sewage or any other substance; or”;

(b) in sub-clause (iv) and sub-clause (v), the word “or” shall be inserted at the end;

(c) after sub-clause (v), the following sub-clause shall be inserted, namely:—

“(vi) preserving or storing any article in cold storage;”;

(2) in clause (l),—

(a) for the words “employed, directly or through any agency, whether for wages or not”, the words and brackets “employed, directly or by or through any agency (including a contractor) with or without the knowledge of the principal employer, whether for remuneration or not” shall be substituted;

(b) the following words shall be inserted at the end, namely:—

“but does not include any member of the armed forces of the Union”;

(3) in clause (m),—

(a) in the concluding paragraph, for the words “a railway running shed”, the words “a mobile unit belonging to the armed forces of the Union, a railway running shed or a hotel, restaurant or eating place” shall be substituted;

(b) the following *Explanation* shall be inserted at the end, namely:—

Explanation.—For computing the number of workers for the purposes of this clause all the workers in different relays in a day shall be taken into account;”;

(4) in clause (n), the following proviso shall be inserted at the end, namely:—

“Provided that in the case of a ship which is being repaired, or on which maintenance work is being carried out, in a dry dock which is available for hire,—

(1) the owner of the dock shall be deemed to be the occupier for the purposes of any matter provided for by or under—

(a) section 6, section 7, section 11 or section 12;

(b) section 17, in so far as it relates to the providing and maintenance of sufficient and suitable lighting in or around the dock;

(c) section 18, section 19, section 42, section 46, section 47 or section 49, in relation to the workers employed on such repair or maintenance;

(2) the owner of the ship or his agent or master or other officer-in-charge of the ship or any person who contracts with such owner, agent or master or other officer-in-charge to carry out the repair or maintenance work shall be deemed to be the occupier for the purposes of any matter provided for by or under section 13, section 14, section 16 or section 17 (save as otherwise provided in this proviso) or Chapter IV (except section 27) or section 43, section 44 or section 45, Chapter VI, Chapter VII,

Chapter VIII or Chapter IX or section 108, section 109 or section 110, in relation to—

(a) the workers employed directly by him, or by or through any agency; and

(b) the machinery, plant or premises in use for the purpose of carrying out such repair or maintenance work by such owner, agent, master or other officer-in-charge or person;”.

3. Amendment of section 5.—In section 5 of the principal Act, the following *Explanation* shall be inserted at the end, namely:—

Explanation.—For the purposes of this section “public emergency” means a grave emergency whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance.”.

4. Amendment of section 6.—In section 6 of the Principal Act,—

(a) clause (a) of sub-section (1) shall be re-lettered as clause (aa), and before the clause as so relettered, the following clause shall be inserted, namely:—

“(a) requiring, for the purposes of this Act, the submission of plans of any class or description of factories to the Chief Inspector or the State Government;”;

(b) in sub-section (2), for the word, brackets and letter “clause (a)”, the word, brackets and letters “clause (aa)” shall be substituted;

(c) in the *Explanation*, the words “if such replacement or addition does not reduce the minimum clear space required for safe working around the plant or machinery or adversely affect the environmental conditions from the evolution or emission of steam, heat or dust or fumes injurious to health” shall be inserted at the end.

5. Amendment of section 7.—In section 7 of the principal Act, in sub-section (1), for clause (e), the following clause shall be substituted, namely:—

“(e) the total rated horse power installed or to be installed in the factory, which shall not include the rated horse power of any separate stand-by plant;”.

6. Amendment of section 8.—In section 8 of the principal Act,—

(a) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(2A) The State Government may, by notification in the Official Gazette, appoint as many Additional Chief Inspectors, Joint Chief Inspectors and Deputy Chief Inspectors and as many other officers as it thinks fit to assist the Chief Inspector and to exercise such of the powers of the Chief Inspector as may be specified in such notification.

(2B) Every Additional Chief Inspector, Joint Chief Inspector, Deputy Chief Inspector and every other officer appointed under sub-section (2A) shall, in addition to the powers of a Chief Inspector specified in the notification by which he is appointed, exercise the powers of an Inspector throughout the State.”;

(d) in sub-section (3), after the word, brackets and figure “sub-section (2)”, the word, brackets, figure and letter “, sub-section (2A)” shall be inserted;

(c) in sub-section (7), for the words “Every Chief Inspector and Inspector”, the words “Every Chief

Inspector, Additional Chief Inspector, Joint Chief Inspector, Deputy Chief Inspector, Inspector and every other officer appointed under this section" shall be substituted.

7. Amendment of section 10.—In section 10 of the principal Act, in sub-section (3), the following proviso shall be inserted at the end, namely:—

"Provided that the State Government may, by order in writing and subject to such conditions as may be specified in the order, exempt any person or class of persons from the provisions of this sub-section in respect of any factory or class or description of factories.".

8. Amendment of section 11.—In section 11 of the principal Act,—

(1) in sub-section (1), in clause (d),—

(a) in sub-clause (i), for the word "painted", the words "painted otherwise than with washable water-paint" shall be substituted;

(b) after sub-clause (i), the following sub-clause shall be inserted, namely:—

"(ia) where they are painted with washable water paint, be repainted with at least one coat of such paint at least once in every period of three years and washed at least once in every period of six months;";

(c) after clause (d), the following clause shall be inserted, namely:—

"(dd) all doors and window frames and other wooden or metallic framework and shutters shall be kept painted or varnished and the painting or varnishing shall be carried out at least once in every period of five years;" ;

(2) in sub-section (2),—

(a) for the words "in a factory", the words "in a factory or class or description of factories or any part of a factory or class or description of factories" shall be substituted;

(b) after the words "description of factories", the words "or part" shall be inserted.

9. Amendment of section 12.—In section 12 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Effective arrangements shall be made in every factory for the treatment of wastes and effluents due to the manufacturing process carried on therein, so as to render them innocuous, and for their disposal.".

10. Amendment of section 21.—In section 21 of the principal Act, in sub-section (1),—

(a) in the concluding paragraph, for the words "shall be kept in position", the words "shall be constantly maintained and kept in position" shall be substituted;

(b) for the proviso, the following proviso shall be substituted, namely:—

"Provided that for the purpose of determining whether any part of machinery is in such position or is of such construction as to be safe as aforesaid, account shall not be taken of any occasion when—

(i) it is necessary to make an examination of any part of the machinery aforesaid while it is in motion or, as a result of such examination, to carry out lubrication or other adjusting operation while the machinery is in motion,

being an examination or operation which it is necessary to be carried out while that part of the machinery is in motion, or

(ii) in the case of any part of a transmission machinery used in such process as may be prescribed (being a process of a continuous nature the carrying on of which shall be, or is likely to be, substantially interfered with by the stoppage of that part of the machinery), it is necessary to make an examination of such part of the machinery while it is in motion or, as a result of such examination, to carry out any mounting or shipping of belts or lubrication or other adjusting operation while the machinery is in motion,

and such examination or operation is made or carried out in accordance with the provisions of sub-section (1) of section 22."

11. Amendment of section 22.—In section 22 of the principal Act, in sub-section (1), for the opening paragraph and clause (a), the following shall be substituted, namely:—

"Where in any factory it becomes necessary to examine any part of machinery referred to in section 21, while the machinery is in motion, or, as a result of such examination, to carry out—

(a) in a case referred to in clause (i) of the proviso to sub-section (1) of section 21, lubrication or other adjusting operation ; or

(b) in a case referred to in clause (ii) of the proviso aforesaid, any mounting or shipping of belts or lubrication or other adjusting operation,

while the machinery is in motion, such examination or operation shall be made or carried out only by a specially trained adult male worker wearing tight fitting clothing (which shall be supplied by the occupier) whose name has been recorded in the register prescribed in this behalf and who has been furnished with a certificate of his appointment, and while he is so engaged,—

(a) such worker shall not handle a belt at a moving pulley unless—

(i) the belt is not more than fifteen centimetres in width;

(ii) the pulley is normally for the purpose of drive and not merely a fly-wheel or balance wheel (in which case a belt is not permissible);

(iii) the belt joint is either laced or flush with the belt;

(iv) the belt, including the joint and the pulley rim, are in good repair ;

(v) there is reasonable clearance between the pulley and any fixed plant or structure ;

(vi) secure foothold and, where necessary, secure handhold, are provided for the operator; and

(vii) any ladder in use for carrying out any examination or operation aforesaid is securely fixed or lashed or is firmly held by a second person.".

12. Amendment of section 24.—In section 24 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

(3) When a device, which can inadvertently shift from "off" to "on" position, is provided in a factory to cut off power, arrangements shall be provided for locking the device in safe position to prevent accidental starting of the transmission machinery or other machines to which the device is fitted.'

13. Amendment of section 31.—In section 31 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The State Government may, by rules, exempt, subject to such conditions as may be specified therein, any part of any plant or machinery referred to in sub-section (1) from the provisions of this section .".

14. Amendment of section 32.—In section 32 of the principal Act,—

(1) in clause (a), after the words "properly maintained" the words "and shall be kept free from obstructions and substances likely to cause persons to slip" shall be inserted ;

(2) after clause (b), the following clause shall be inserted, namely:—

"(c) when any person has to work at a place from where he is likely to fall a distance exceeding two metres, then, unless the place is one which provides secure foothold and, where necessary, secure handhold, provision shall be made, so far as is reasonably practicable, by fencing or otherwise, to ensure the safety of the person so working.".

15. Amendment of section 36.—In section 36 of the principal Act, sub-section (2) shall be omitted.

16. Insertion of new section 36A.—After section 36 of the principal Act, the following section shall be inserted, namely:—

"36A. Precautions regarding the use of portable electric light.—In any factory—

(a) no portable electric light or any other electric appliance of voltage exceeding twenty-four volts shall be permitted for use inside any chamber, tank, vat, pit, pipe, flue or other confined space; and

(b) if any inflammable gas, fume or dust is likely to be present in such chamber, tank, vat, pit, pipe, flue or other confined space, no lamp or light other than that of flame-proof construction shall be permitted to be used therein.”.

17. Amendment of section 38.—In section 38 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) In every factory there shall be provided such means of escape in case of fire as may be prescribed.”;

(ii) after sub-section (7), the following sub-sections shall be inserted, namaly:—

"(8) Notwithstanding anything contained in sub-section (1) or sub-section (7), if the Inspector, having regard to the nature of the work carried on in the factory, construction of the factory, special risk to life or safety or any other

circumstance, is of the opinion that though such means of escape as may be prescribed have been provided in the factory, the same is not adequate to permit safe, easy or quick exit of the workers in case of fire, he may, by order in writing, require that such additional means of escape or other measures as he may consider reasonable and necessary be provided in the factory before such date as is specified in the order.

(9) If any question arises whether or not the means of escape provided in the factory is adequate to permit safe, easy or quick exit of the workers in case of fire, the same shall be referred to the Chief Inspector, who shall, after giving the persons concerned a reasonable opportunity to represent their views, decide the same.

(10) Any person aggrieved by the decision of the Chief Inspector under sub-section (9) may, before the expiry of thirty days from the date on which the decision is communicated to him, prefer an appeal to the State Government and the State Government shall after giving the appellant a reasonable opportunity to represent his views, make such order in relation to the appeal as it thinks fit.”.

18. Amendment of sections 39 and 40.—In section 39 and section 40 of the principal Act, for the words "the manager", wherever they occur, the words "the occupier or manager or both" shall be substituted.

19. Insertion of new sections 40A and 40B.—After section 40 of the principal Act, the following sections shall be inserted, namely:—

"40A. Maintenance of buildings.—If it appears to the Inspector that any building or part of a building in a factory is in such a state of disrepair as is likely to lead to conditions detrimental to the health and welfare of the workers, he may serve on the occupier or manager or both of the factory an order in writing specifying the measures which in his opinion should be taken and requiring the same to be carried out before such date as is specified in the order.

40 B. Safety Officers.—(i) In every factory,—

(i) wherein one thousand or more workers are ordinarily employed, or

(ii) wherein, in the opinion of the State Government, any manufacturing process or operation is carried on, which process or operation involves any risk of bodily injury, poisoning or disease, or any other hazard to health, to the persons employed in the factory,

the occupier shall, if so required by the State Government by notification in the Official Gazette, employ such number of Safety Officers as may be specified in that notification.

(2) The duties, qualifications and conditions of service of Safety Officers shall be such as may be prescribed by the State Government.”.

20. Amendment of section 41.—In section 41 of the principal Act, for the word "devices", the words "devices and measures" shall be substituted.

21. Amendment of section 45.—In section 45 of the principal Act,—

- (a) in sub-section (3), for the words "who is trained in first-aid treatment", the words "who holds a certificate in first-aid treatment recognised by the State Government" shall be substituted;
- (b) in sub-section (4),—
 - (i) for the word "employed" the words "ordinarily employed" shall be substituted;
 - (ii) the words "and those facilities shall always be made readily available during the working hours of the factory" shall be inserted at the end.

22. Amendment of section 46.—In section 46 of the principal Act, in sub-section (2), after clause (d), the following clause shall be inserted, namely:—

- "(dd) the items of expenditure in the running of the canteen which are not to be taken into account in fixing the cost of foodstuffs and which shall be borne by the employer;".

23. Amendment of section 48.—In section 48 of the principal Act, in sub-section (1), for the words "fifty women workers", the words "thirty women workers" shall be substituted.

24. Amendment of section 56.—In section 56 of the principal Act, in the proviso, for the words "spread over to twelve hours", the words "spread over up to twelve hours" shall be substituted.

25. Amendment of section 59.—In section 59 of the principal Act, for sub-section (2) and sub-section (3), the following sub-sections shall be substituted, namely:—

(2) For the purposes of sub-section (1), "ordinary rate of wages" means the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, but does not include a bonus and wages for overtime work.

(3) Where any workers in a factory are paid on a piece-rate basis, the time rate shall be deemed to be equivalent to the daily average of their full-time earnings for the days on which they actually worked on the same or identical job during the month immediately preceding the calendar month during which the overtime work was done, and such time rates shall be deemed to be the ordinary rates of wages of those workers :

Provided that in the case of a worker who has not worked in the immediately preceding calendar month on the same or identical job, the time rate shall be deemed to be equivalent to the daily average of the earnings of the worker for the days on which he actually worked in the week in which the overtime work was done.

Explanation.—For the purposes of this sub-section in computing the earnings for the days on which the worker actually worked such allowances, including the cash equivalent or the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, shall be included but any bonus or wages for overtime work payable in relation to the period with reference to which the earnings are being computed shall be excluded.'

26. Amendment of section 62.—In section 62 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) No adult worker shall be required or allowed to work in any factory unless his name and other particulars have been entered in the register of adult workers."

27. Amendment of section 64.—In section 64 of the principal Act,—

- (a) in sub-section (1),—

(i) after the words "confidential position in a factory", the words "or empowering the Chief Inspector to declare any person, other than a person defined by such rules, as a person holding position of supervision or management or employed in a confidential position in a factory if, in the opinion of the Chief Inspector, such person holds such position or is so employed" shall be inserted;

(ii) the words "or declared" shall be inserted at the end;

(iii) the following proviso shall be inserted at the end, namely:—

"Provided that any person so defined or declared shall, where the ordinary rate of wages of such person does not exceed rupees seven hundred and fifty per montl., be entitled to extra wages in respect of overtime work under section 59.";

- (b) in sub-section (2),—

(i) in clause (e) and clause (h), for the word and figures "section 52", the words and figures "section 51 and section 52" shall be substituted;

(ii) in clause (f), for the word and figures "section 52", the words and figures "section 51, section 52 and section 54" shall be substituted;

(iii) in clause (j), after the word "railway wagons", the words "or lorries or trucks" shall be inserted;

(iv) after clause (j), the following clause shall be inserted, namely:—

"(k) of workers engaged in any work, which is notified by the State Government in the Official Gazette as a work of national importance, from the provisions of section 51, section 52, section 54, section 55 and section 56.";

(c) in sub-section (4), clause (iii) shall be re-numbered as clause (iv) and before clause (iv) as so re-numbered, the following clause shall be inserted, namely:—

"(iii) the total number of hours of work in a week, including overtime, shall not exceed sixty;";

(d) in sub-section (5), for the word "three years", the words "five years" shall be substituted.

28. Amendment of section 65.—In section 65 of the principal Act,—

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

(3) Any exemption granted under sub-section (2) shall be subject to the following conditions, namely:—

- (i) the total number of hours of work in any day shall not exceed twelve;
- (ii) the spread over, inclusive of intervals for rest, shall not exceed thirteen hours in any one day;
- (iii) the total number of hours of work in any week, including overtime, shall not exceed sixty;
- (iv) no worker shall be allowed to work overtime, for more than seven days at a stretch and the total number of hours of overtime work in any quarter shall not exceed seventy-five.

Explanation.—In this sub-section “quarter” has the same meaning as in sub-section (4) of section 64.”;

(b) sub-section (4) shall be omitted.

29. *Amendment of section 66.*—In section 66 of the principal Act, in sub-section (1), in clause (b),—

- (i) in the opening paragraph, for the words “employed in any factory”, the words “required or allowed to work in any factory” shall be, substituted;
- (ii) in the proviso, for the words “any class or description of factories”, the words “any factory or group or class or description of factories” shall be substituted.

30. *Amendment of section 73.*—In section 73 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) No child worker shall be required or allowed to work in any factory unless his name and other particulars have been entered in the register of child workers.”.

31. *Amendment of section 78.*—In section 78 of the principal Act,—

(a) in sub-section (1),—

- (i) in the opening paragraph for the word “agreement” the words and brackets “agreement (including settlement)” shall be substituted;
- (ii) for the proviso, the following proviso shall be substituted, namely:—

“Provided that if such award, agreement (including settlement) or contract of service provides for a longer annual leave with wages than provided in this Chapter, the quantum of leave, which the worker shall be entitled to, shall be in accordance with such award, agreement or contract of service, but in relation to matters not provided for in such award, agreement or contract or service or matters which are provided for less favourably therein,

the provisions of sections 79 to 82, so far as may be, shall apply.”;

(b) in sub-section (2), for the words “in any workshop”, the words “in any factory” shall be substituted.

32. *Amendment of section 79.*—In section 79 of the principal Act,—

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

(3) If a worker is discharged or dismissed from service or quits his employment or superannuated or dies while in service, during the course of the calendar year, he or his heir or nominee, as the case may be, shall be entitled to wages in lieu of the quantum of leave to which he was entitled immediately before his discharge, dismissal, quitting of employment, superannuation or death calculated at the rates specified in sub-section (1), even if he had not worked for the entire period specified in sub-section (1) or sub-section (2) making him eligible to avail of such leave, and such payment shall be made—

- (i) where, the worker is discharged or dismissed or quits employment, before the expiry of the second working day from the date of such discharge, dismissal or quitting; and
- (ii) where the worker is superannuated or dies while in service, before the expiry of two months from the date of such superannuation or death.”;

(b) in sub-section (5), in the second proviso,—

- (i) after the words, brackets and figures “in sub-sections (8) and (9)”, the words, brackets and figures “or in contravention of sub-section (10)” shall be inserted;
- (ii) for the words “unavailed leave”, the words “leave refused” shall be substituted.

33. *Amendment of section 80.*—In section 80 of the principal Act, in sub-section (1),—

- (i) for the word and figures “section 79”, the words and figures “section 78 or section 79, as the case may be” shall be substituted;
- (ii) for the words “he worked”, the words “he actually worked” shall be substituted.

34. *Amendment of section 84.*—In section 84 of the principal Act, following *Explanation* shall be inserted at the end, namely:—

Explanation.—For the purposes of this section, in deciding whether the benefits which are provided for by any leave rules are less favourable than those for which this Chapter makes provision, or not, the totality of the benefits shall be taken into account.”.

35. *Amendment of section 86.*—In section 86 of the principal Act, in the opening paragraph, for the word “training”, the words “training, research” shall be substituted.

36. Amendment of section 87.—In section 87 of the principal Act,—

- (a) for the word “operation”, wherever it occurs, the words “manufacturing process or operation shall be substituted;
- (b) in clause (c), the following words shall be inserted at the end, namely:—

“and requiring the payment by the occupier of the factory of fees for such medical examination.”.

- (c) after clause (e), the following clauses shall be inserted, namely:—

“(f) requiring the provision of additional welfare amenities and sanitary facilities and the supply of protective equipment and clothing, and laying down the standards thereof, having regard to the dangerous nature of the manufacturing process or operation;

(g) providing for issue of orders in writing by the Inspector or the Chief Inspector to the manager or occupier or both of the factory directing them to carry out such measures, and within such time, as may be specified in such order with a view to removing conditions dangerous to the health of the workers, or to suspend any process, where such process constitutes, in the opinion of the Inspector or the Chief Inspector, as the case may be, imminent danger of poisoning or toxicity.”.

37. Amendment of section 88.—Section 88 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

“(2) Where a notice given under sub-section (1) relates to an accident causing death, the authority to whom the notice is sent shall make an inquiry into the occurrence within one month of the receipt of the notice or, if such authority is not the Inspector, cause the Inspector to make an inquiry within the said period.

(3) The State Government may make rules for regulating the procedure at inquiries under this section.”.

38. Insertion of new section 88A.—After section 88 of the principal Act, the following section shall be inserted, namely:—

“88A. Notice of certain dangerous occurrences.”—Where in a factory any dangerous occurrence of such nature as may be prescribed occurs, whether causing any bodily injury or disability or not, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.”.

39. Insertion of new section 91A.—In Chapter IX of the principal Act, after section 91, the following section shall be inserted, namely:—

“91A. Safety and occupational health surveys.”—(1) The Chief Inspector, or the Director General of Factory Advice Service and Labour Institutes, or the Director General of Health Services, to the Government of India, or such other officer as may be authorised in this behalf by the State Government or the Chief Inspector or the Director General of Factory Advice Service and Labour Institutes

or the Director General of Health Services may at any time during the normal working hours of a factory, or at any other time as is found by him to be necessary, after giving notice in writing to the occupier or manager of the factory or any other person who for the time being purports to be in charge of the factory, undertake safety and occupational health surveys and such occupier or manager or other person shall afford all facilities for such survey, including facilities for the examination and testing of plant and machinery and collection of samples and other data relevant to the survey.

(2) For the purpose of facilitating surveys under sub-section (1) every worker shall, if so required by the person conducting the survey, present himself to undergo such medical examination as may be considered necessary by such person and furnish all information in his possession and relevant to the survey.

(3) Any time spent by a worker for undergoing medical examination or furnishing information under sub-section (2) shall, for the purpose of calculating wages and extra wages for overtime work, be deemed to be time during which such worker worked in the factory.”.

40. Amendment of section 92.—In section 92 of the principal Act,—

- (a) for the words “five hundred rupees”, the words “two thousand rupees” shall be substituted;
- (b) the following proviso and *Explanation* shall be inserted at the end, namely:—

‘Provided that where contravention of any of the provisions of Chapter IV or any rule made thereunder or under section 87 has resulted in an accident causing death or serious bodily injury, the fine shall not be less than one thousand rupees in the case of an accident causing death, and five hundred rupees in the case of an accident causing serious bodily injury.

Explanation.—In this section and in section 94 “serious bodily injury” means an injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb or the permanent loss, loss of, or injury to, sight or hearing, or the fracture of any bone, but shall not include, the fracture of bone or joint (not being fracture of more than one bone or joint) of any phalanges of the hand or foot.’.

41. Amendment of section 94.—Section 94 of the principal Act shall be re-numbered as sub-section (1) thereof and,—

- (a) in sub-section (1) as so re-numbered,—

(i) in the opening paragraph, for the words “which may extend to one thousand rupees”, the words “which shall not be less than two hundred rupees but which may extend to five thousand rupees” shall be substituted;

(ii) for the proviso, the following provisos shall be substituted, namely:—

“Provided that the court may, or any adequate and special reasons to be mentioned in the judgement, impose a fine of less than two hundred rupees:

Provided further that where contravention of any of the provisions of Chapter IV or any rule made thereunder or under section 87 has resulted in an accident causing death or

serious bodily injury, the fine shall not be less than two thousand rupees in the case of an accident causing death and one thousand rupees in the case of an accident causing serious bodily injury. ”;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) For the purposes of sub-section (1), no cognizance shall be taken of any conviction made more than two years before the commission of the offence for which the person is subsequently being convicted..

42. Amendment of section 100.—In section 100 of the principal Act, in sub-section (2),—

(a) in the opening paragraph, the words “, or in the case of a private company, any one of the shareholders thereof,” shall be omitted;

(b) in the proviso,—

(i) for the words “a director, or in the case of a private company, a shareholder, who is resident in either case within India”, the words “a director, who is resident within India” shall be substituted;

(ii) for the words “such director or shareholder, as the case may be,”, the words “such director” shall be substituted;

(iii) for the words “ceases to be director or shareholder”, the words “ceases to be a director” shall be substituted;

(c) the following proviso shall be inserted at the end, namely:—

“Provided further that in the case of a factory belonging to the Central Government or any State Government or any local authority the person or persons appointed to manage the affairs of the factory shall be deemed to be the occupier of that factory for the purposes of this Chapter.”.

43. Amendment of section 106.—In section 106 of the principal Act, the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*—For the purposes of this section,—

(a) in the case of a continuing offence, the period of limitation shall be computed with reference to every point of time during which the offence continues;

(b) where for the performance of any act time is granted or extended on an application made by the occupier or manager of a factory, the period of limitation shall be computed from the date on which the time so granted or extended expired.”.

44. Insertion of new section 119.—After section 118 of the principal Act, the following section shall be inserted, namely:—

“119. *Act to have effect notwithstanding anything contained in Act 37 of 1970.*—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Contract Labour (Regulation and Abolition) Act, 1970.”.

45. Amendment of the Schedule.—In the Schedule to the principal Act, the following serial numbers and entries shall be inserted at the end, namely:—

“18. *Schedule.*—Oil acne or dermatitis due to mineral oils and compounds containing mineral oil base.

19. Byssiosis.

20. Asbestosis.

- 21. Occupational or contract dermatitis cause by direct contact with chemicals and paints. There are of two types, that is primary irritants and allergic sensitizers.
- 22. Noise induced hearing loss (exposure to high noise levels).”.

Assented to on 5-9-1973.

THE BRAITHWAITE AND COMPANY (INDIA) LIMITED (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1976

(ACT NO. 96 OF 1976)

AN

ACT

to provide for the acquisition and transfer of the undertakings of Messrs. Braithwaite and Company (India) Limited for the purpose of ensuring the continuity of production of goods which are vital to the needs of the country, and for matters connected therewith or incidental thereto.

WHEREAS Messrs. Braithwaite and Company (India) Limited was engaged in the manufacture and production of railway wagons, structural steel works for bridges and heavy workshop buildings, pressed steel tanks, cranes, road roller, jute cañing machines, roll formers, power sweepers, grey iron castings and steel forgings and also in the machining of intricate components of large sizes;

And WHEREAS as a result of heavy losses suffered by the Company, there had been a closure of certain works owned by the Company;

AND WHEREAS for the purpose of speedily bringing the closed works of the Company into operation, the management of the undertakings of the Company was taken over by the Central Government, for a limited period, under section 18A of the Industries (Development and Regulation) Act, 1951 (65 of 1951);

AND WHEREAS it is necessary to acquire the undertakings of the Company to ensure the continuance of the production of goods which are vital to the needs of the country;

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Braithwaite and Company (India) Limited (Acquisition and Transfer of Undertakings) Act, 1976.

(2) The provisions of sections 28 and 29 shall come into force at once and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of April, 1975.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “appointed day” means the 1st day of April, 1975;

- (b) "Company" means the Braithwaite and Company (India) Limited, being a company as defined in the Companies Act, 1956 (1 of 1956), and having its registered office at 5, Hide Road, Calcutta-700043;
- (c) "Commissioner" means the Commissioner of Payments appointed under section 14;
- (d) "Ordinance" means the Braithwaite and Company (India) Limited (Acquisition and Transfer of Undertakings) Ordinance, 1976 (7 of 1976);
- (e) "notification" means a notification published in the Official Gazette;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "specified date" means such date as the Central Government may, for the purposes of any provision of this Act, by notification, specify and different dates may be specified for different provisions of this Act;
- (h) words and expressions used herein and not defined but defined in the Companies Act, 1956, (1 of 1956) shall have the meanings, respectively, assigned to them in that Act.

CHAPTER II

ACQUISITION AND TRANSFER OF THE UNDERTAKING OF THE COMPANY

3. On the appointed day, the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings, shall, by virtue of this Act, be transferred to, and shall vest in, the Central Government.

4. *General effect of vesting.*—(1) The undertakings of the Company shall be deemed to include all assets, rights, lease-holds, powers, authorities and privileges, and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash on hand, reserve funds, investments, book debts and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the Company, whether within or outside India and all books of account, registers and all other documents of whatever nature relating thereto.

(2) All properties as aforesaid which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting it, and any attachment, injunction or decree or order of any court restricting the use of such property in any manner or appointing any receiver in respect of the whole or any part of such property shall be deemed to have been withdrawn.

(3) Every mortgagee of any property which has vested under this Act in the Central Government and every person holding any charge, lien or other interest in, or in relation to, any such property, shall, given, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgagee, charge, lien or other interest.

(4) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (2) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be

entitled to claim, in accordance with his rights and interest, payment of the mortgage money or other dues, in whole or in part, out of the amounts specified in section 7, and also out of the monies determined under section 8, but no such mortgage, charge, lien or other interest shall be enforceable against by property which has vested in the Central Government.

(5) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any property which has vested in the Central Government, under section 3, instituted or preferred by or against the Company is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of transfer of the undertakings of the Company or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government, or where the undertakings of the Company are directed under section 6, to vest in a Government company, against that Government company.

5. *Central Government or the Government company not to be liable for prior liabilities.*—(1) Every liability of the Company in respect of any period prior to the appointed day, shall be the liability of the Company and shall be enforceable against it and not against the Central Government, or, where the undertakings are directed, under section 6, to vest in a Government company, against that Government company.

(2) For the removal of doubts, it is hereby declared that,—

- (a) save as otherwise expressly provided in this section or in any other provision of this Act, no liability of the Company in respect of any period prior to the appointed day, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed under section 6 to vest in a Government company, against that Government company;
- (b) no award, decree or order of any court, tribunal or other authority in relation to the undertakings of the Company, passed after the appointed day, in respect of any matter, claim or dispute which arose before that day, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed under section 6 to vest in a Government company, against that Government company;
- (c) no liability incurred by the Company before the appointed day, for the contravention of any provision of law for the time being in force, shall be enforceable against the Central Government, or, where the undertakings of the Company are directed under section 6, to vest in a Government company, against that Government company.

6. *Power of Central Government to direct vesting of the undertakings of the Company in a Government company.*—(1) Notwithstanding anything contained in sections 3 and 4, the Central Government may, if it is satisfied that a Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct, by notification, that the undertakings of the Company, and the right, title and interest of the Company in relation to its undertakings, which have vested in the Central Government under section 3, shall, instead of continuing to vest in the Central Government, vest in the Government company either on the date of the notification or on such earlier or later date (not being a

date earlier than the appointed day) as may be specified in the notification.

(2) Where the right, title and interest of the Company in relation to its undertakings, vest in a Government company under sub-section (1), the Government company shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings, and all the rights and liabilities of the Central Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of the Government company.

CHAPTER III

PAYMENT OF AMOUNTS

7. Payment of amount.—For the transfer to, and vesting in, the Central Government, under section 3, of the undertakings of the Company and the right, title and interest of the Company in relation to its undertakings, there shall be given by the Central Government to the Company, in cash, and in the manner specified in Chapter VI, an amount of rupees sixteen crores and twenty-five lakhs.

8. Payment of further amount.—(1) For the deprivation of the Company of the management of its undertakings, there shall be given to the Company by the Central Government an amount calculated at the rate of rupees fifty thousand per annum for the period commencing on the date on which the management of the undertakings of the Company was taken over by the Central Government and ending on the appointed day.

(2) In consideration of the retrospective operation of the provisions of sections 3, 4 and 5, there shall also be given, in cash, by the Central Government to the Company, an amount equal to an amount calculated at the rate of rupees fifty thousand per annum for the period commencing on the appointed day and ending on the date of promulgation of the Ordinance.

(3) The amount specified in section 7 and the amounts determined under sub-sections (1) and (2) shall carry simple interest at the rate of four per cent per annum for the period commencing on the date of promulgation of the Ordinance and ending on the date on which payment of such amounts is made by the Central Government to the Commissioner.

(4) The amounts determined in accordance with the provisions of sub-sections (1), (2) and (3) shall be given by the Central Government to the Company in addition to the amount specified in section 7.

(5) For the removal of doubts, it is hereby declared that the liabilities of the Company, in relation to its undertakings which have vested in the Central Government under section 3, shall be discharged from the amounts referred to in section 7, and also from the amounts determined under sub-sections (1), (2) and (3), in accordance with the rights and interests of the creditors of the Company.

CHAPTER IV

MANAGEMENT, ETC., OF THE UNDERTAKINGS OF THE COMPANY

9. Management, etc., of the undertakings of the Company.—(1) The general superintendence, direction,

control and management of the affairs and business of the undertakings of the Company, the right, title and interest in relation to which have vested in the Central Government under section 3, shall,—

(a) where a direction has been made by the Central Government under sub-section (1) of section 6, vest in the Government company specified in such direction, or

(b) where no such direction has been made by the Central Government, vest in one or more Custodians appointed by the Central Government under sub-section (2),

and thereupon the Government company so specified or the Custodian so appointed, as the case may be, shall be entitled to exercise all such powers and do all such things as the Company is authorised to exercise and do in relation to its undertakings.

(2) The Central Government may appoint one or more individuals or a Government company as the Custodian of the undertakings of the Company in relation to which no direction has been made by it under sub-section (1) of section 6.

10. Duty of persons in charge of management of the undertakings of the Company to deliver all assets, etc.—(1) On the vesting of the management of the undertakings of the Company in a Government company or on the appointment of a Custodian, all persons in charge of the management of the undertakings of the company immediately before such vesting or appointment, shall be bound to deliver to the Government company or the Custodian, as the case may be, all assets, books of account, registers or other documents in their custody relating to the undertakings of such Company.

(2) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the Government company or the Custodian as to its or his powers and duties and the Government company or Custodian may also, if it or he so desires, apply to the Central Government at any time for instructions as to the manner in which the management of the undertakings of the Company shall be conducted by it or him or in relation to any other matter arising in the course of such management.

(3) The Custodian shall receive from the funds of the undertakings of the Company such remuneration as the Central Government may fix and shall hold office during the pleasure of the Central Government.

11. Accounts and audit.—The Custodian of the undertakings of the Company shall maintain an account of the undertakings of the Company in such form and manner and under such conditions as may be prescribed and the provisions of the Companies Act, 1956 (1 of 1956), shall apply to the audit of the account so maintained as they apply to the audit of the accounts of a company.

CHAPTER V

PROVISIONS RELATING TO THE EMPLOYEES OF THE COMPANY

12. Employment of certain employees to continue.—(1) Every person who is a workman within the meaning of the Industrial Disputes Act, 1947 (14 of 1947), and has been, immediately before the appointed day, employed in any undertaking of the Company shall become, on and from the appointed day, an employee of the Central Government or, as the case may be, of the Government

company in which the right, title and interest of the Company in relation to its undertakings have vested under this Act, and shall hold office or service under the Central Government or the Government company, as the case may be, with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Central Government or the Government company, as the case may be, is duly terminated or until his remuneration and other conditions of service are duly altered by the Central Government or the Government company, as the case may be.

(2) Every person who is not a workman within the meaning of the Industrial Disputes Act, 1947 (14 of 1947), and who has been, immediately before the appointed day, employed in any undertaking of the Company shall become, as from the appointed day, an employee of the Central Government or the Government company, and shall hold office of service therein by the same tenure at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as would have been admissible to him if the undertakings of the Company had not been transferred to, and vested in, the Central Government or the Government company, and shall continue to do so unless and until his employment in the Central Government or the Government company is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the Central Government or the Government company, as the case may be.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, the transfer of the services of any officer or other person employed in any undertaking of the Company to the Central Government or the Government company shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(4) Where, under the terms of any contract of service or otherwise, any person, whose services become transferred to the Central Government or the Government company by reasons of the provisions of this Act, is entitled to any arrears of salary or wages or any payments for any leave not availed of or any other payment, not being payment by way of gratuity or pension, such person may enforce his claim against the Company, but not against the Central Government or the Government company.

13. Provident and other funds.—(1) Where the Company has established a provident, superannuation, welfare or other fund for the benefit of the person employed in any of the undertakings of the Company, monies relatable to the officers or other employees, whose services have become transferred by or under this Act to the Central Government or the Government company, shall, out of the monies standing, on the appointed day, to the credit of such provident, superannuation, welfare or other fund, stand transferred to, and shall vest in the Central Government or the Government company, as the case may be.

(2) The monies which stand transferred under sub-section (1) to the Central Government or the Government company, as the case may be, shall be dealt with

by that Government or that Government company in such manner as may be prescribed.

CHAPTER VI

COMMISSIONER OF PAYMENTS

14. Appointment of Commissioner of Payments.—(1) The Central Government shall, for the purpose of disbursing the amounts payable to the Company under sections 7 and 8, by notification, appoint a Commissioner of Payments.

(2) The Central Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Act and different persons may be authorised to exercise different powers.

(3) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.

(4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.

15. Payment by the Central Government to the Commissioner.—(1) The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, for payment to the Company—

- (a) an amount equal to the amount specified in section 7, and
- (b) an amount equal to the amount payable to the Company under section 8.

(2) A deposit account shall be opened by the Central Government in favour of the Commissioner, in the Public Account of India, and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account and the said deposit account shall be operated by the Commissioner.

(3) The interest accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall ensure to the benefit of the Company.

16. Certain powers of the Central Government or Government company.—(1) The Central Government or the Government company, as the case may be, shall be entitled to receive up to the specified date, to the exclusion of all other persons, any money due to the Company, in relation to its undertakings which have vested in the Central Government, or the Government company, realised after the appointed day notwithstanding that the realisation pertains to a period prior to the appointed day.

(2) The Central Government or the Government company, as the case may be, may make a claim to the Commissioner with regard to every payment made by it after the appointed day for discharging any liability of the Company in relation to any period prior to the appointed day; and every such claim shall have priority in accordance with the priorities attaching, under this Act, to the matter in relation to which such liability has been discharged by the Central Government or the Government company.

(3) Save as otherwise provided in this Act, the liabilities of the Company in respect of any transaction prior to the appointed day, which have not been discharged on or before the specified date, shall be the liabilities of the Company.

17. Claims to be made to the Commissioner.—Every person having a claim against the Company shall prefer such claim before the Commissioner within thirty days from the specified date:

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days and not thereafter.

18. Priority of claims.—The claims arising out of the matters specified in the Schedule shall have priorities in accordance with the following principles, namely:—

- (a) Category I will have precedence over all other categories and Category II will have precedence over Category III, and so on;
- (b) the claims specified in each of the categories, except Category VI, shall rank equally and be paid in full, but, if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly;
- (c) the liabilities specified in Category VI shall be discharged, subject to the priorities specified in this section, in accordance with the terms of the secured loans and the priority, *inter se*, of such loans;
- (d) the question of discharging any liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

19. Examination of claims.—(1) On receipt of the claims made under section 17, the Commissioner shall arrange the claims in the order of priorities specified in the Schedule and examine the same in accordance with such order of priorities.

(2) If, on examination of the claims, the Commissioner is of opinion that the amount paid to him under this Act is not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine the claims in respect of such lower category.

20. Admission or rejection of claims.—(1) After examining the claims with reference to the priorities set out in the Schedule, the Commissioner shall fix a certain date on or before which every claimant shall file the proof of his claim or be excluded from the benefit of the disbursements made by the Commissioner.

(2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of a daily newspaper in English language and in one issue of such daily newspaper in the regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the time specified in the advertisement.

(3) Every claimant who fails to file the proof of his claim within the time specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.

(4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the Company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, in writing, admit or reject the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he will hold his sittings and shall, for the purpose of making an investigation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

- (a) the summoning and enforcing the attendance of any witness and examining him on oath;
- (b) the discovery and production of any document or other material object producible as evidence;
- (c) the reception of evidence on affidavits;
- (d) the issuing of any commission for the examination of witnesses.

(6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860), and the Commissioner shall be deemed to be a civil court for the purpose of section 345 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

(7) A claimant who is dissatisfied with the decision of the Commissioner, may prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the Company is situated:

Provided that where a person who is a Judge of a High Court is appointed to be the Commissioner, the appeal shall lie to the High Court at Calcutta, and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

21. Disbursement of money by the Commissioner to claimants.—After admitting a claim under this Act, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such sums are due, and, on such payment, the liability of the Company in respect of such claim shall stand discharged.

22. Disbursement of amounts to the Company.—(1) If, out of the monies paid to him in relation to the undertakings of the Company, there is a balance left after meeting the liabilities as specified in the Schedule, the Commissioner shall disburse such balance to the Company.

(2) Where the possession of any machinery, equipment or other property, has vested in the Central Government or a Government company under this Act, but such machinery, equipment or other property does not belong to the Company, it shall be lawful for the Central Government or the Government company to continue to possess such machinery or equipment or other property on the same terms and conditions under which they were possessed by the Company immediately before the 1st day of April, 1975.

23. Undisbursed or unclaimed amount to be deposited to the general revenue account.—Any money paid to the Commissioner which remains undisbursed or unclaimed for a period of three years from the last day on which the disbursement was made, shall be transferred by the Commissioner to the general revenue account of the Central Government; but a claim to any money so transferred may be preferred to the Central Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, the order, if any, for payment of the claim being treated as an order for the refund of the revenue.

CHAPTER VII

MISCELLANEOUS

24. Act to have over-riding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

25. Contracts to cease to have effect unless ratified by the Central Government or Government company.—(1) Every contract entered into by the Company in relation to its undertakings for any service, sale or supply, and in force immediately before the appointed day, shall, on and from the expiry of one hundred and eighty days from the date of promulgation of the Ordinance, cease to have effect unless such contract is, before the expiry of that period, ratified, in writing, by the Central Government or Government company, and, in ratifying such contract, the Central Government or Government Company may make such alteration or modification therein as it may think fit:

Provided that the Central Government or Government company shall not omit to ratify a contract, and shall not make any alteration or modification in a contract, unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or detrimental to the interests of the Central Government or the Government company.

(2) The Central Government or Government company shall not omit to ratify a contract, and, shall not make any alteration or modification therein, except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording, in writing, its reasons for refusal to ratify the contract or for making any alteration or modification therein.

26. Protection of action taken in good faith.—(1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of that Government or the Custodian or the Government company or any officer or other person authorised by that Government or Government company for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees or the Government company or any officer or other person authorised by that company for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

21. Delegation of powers.—(1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the power conferred by section 30, may also be exercised by such person or persons as may be specified in the notification.

(2) Whenever any delegation of power is made under sub-section (1) the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

28. Penalties.—Any person who,—

- (a) having in his possession, custody or control any property forming part of any undertaking of the Company, wrongfully withholds such property from the Central Government or Government company; or
- (b) wrongfully obtains possession of, or retains, any property forming part of any undertaking of the Company or wilfully withholds or fails to furnish to the Central Government or Government company or any person or body of persons specified by that Government or Government company, any document relating to such undertaking which may be in his possession, custody or control or fails to deliver to the Central Government or Government company or any person or body of persons specified by that Government or Government company, any assets, books of account, registers or other documents in his possession, custody or control, relating to the undertaking of the Company; or
- (c) wrongfully removes or destroys any property forming part of any undertaking of the Company or prefers any claim under this Act which he knows or has reasonable cause to believe to be false or grossly inaccurate,

shall be punishable with imprisonment for a terms which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

29. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) "company" means any body corporate and includes a firm or other association of individuals;

(b) "director", in relation to a firm, means a partner in the firm.

30. Power to make rules.—(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the time within which, and the manner in which, an intimation shall be given to the Commissioner under sub-section (3) of section 4;
- (b) the form and the manner in which, and the conditions under which, the Custodian shall maintain accounts as required by section 11;
- (c) the manner in which the monies in any provident or other fund referred to in section 13 shall be dealt with;
- (d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

31. Power to remove difficulties.—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act receives the assent of the President.

32. Declaration as to the policy of the State.—It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clause (b) of article 39 of the Constitution.

Explanation.—In this section, "State" has the same meaning as in article 12 of the Constitution.

33. Repeal and saving.—(1) The Braithwaite and Company (India) Limited (Acquisition and Transfer of Undertakings) Ordinance, 1976 (7 of 1976), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be

deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

(See sections 18, 19 and 20)

ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES OF THE COMPANY

PART 'A'

Post-take-over management period

Category I—

Wages, salaries and other dues of the employees of the Company.

Category II—

- (a) (i) Loans advanced by the Central Government.
- (ii) Secured loans advanced by banks and financial institutions.

Category III—

- (a) Any other loans.

(b) Credit availed of by the Company for the purpose of carrying on any trading or manufacturing operations.

Category IV—

Revenue, taxes, cesses, rates or other dues of Central Government or a State Government.

PART 'B'

Pre-take-over management period

Category V—

Arrears in relation to contributions to be made by the Company to the provident fund, salaries and wages and other amounts due to employees.

Category VI—

Secured loans.

Category VII—

Revenue, taxes, cesses, rates or any other dues to the Central Government, a State Government, a local authority or a State Electricity Board.

Category VIII—

- (a) Any credit availed of by the Company for the purpose of trading or manufacturing operations.

- (b) Any other dues.